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PATENT APPEAL BRIEF
Application No. 10/797,857
Examiner: Paul Kim
Art Unit: 2161
Applicant: Fordham

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(LHTG No. 00,1247-A)

In re Application of: **Matthew A. Fordham**)
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)
Serial No. **10/797,857**) Examiner: **Paul Kim**
)
)
Filed: **March 10, 2004**) Group Art Unit: **2161**
)
)
For: **METHOD AND SYSTEM FOR**) Conformation No. **3724**
 CREATING VERTICAL SEARCH)
 ENGINES)

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PATENT APPEAL BRIEF

37 C.F.R. §1.192

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BRIEF OF APPELLANT

This is a Patent Appeal Brief submitted under 37 C.F.R. § 1.192 to the Board of Patent Appeals and Interferences from the second rejection of all of the claims of the application. This Appeal Brief is accompanied by the requisite fee set forth in 37 C.F.R. § 41.20(b)(2) for a small entity under 37 C.F.R. § 1.27(a). The Notice of Appeal under 37 C.F.R. § 1.191 was filed on August 28, 2007.

This Appeal Brief is also a response to the assertions the Examiner made in the Final Office Action mailed May 16, 2007. The Appellant traverses all of the Examiner's assertions in this Final Office Action. The Appellant may respond to selected assertions by the Examiner, but the Appellant intends to traverse all of the Examiner's assertions in the Final Office Action.

REAL PARTY IN INTEREST

Logika Corporation, 3717 North Ravenswood, Suite 243, Chicago, IL 60613 that Assignee of the present application, is the real-party in interest.

RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences known to the Appellant.

STATUS OF CLAIMS

The status of the claims is as follows:

1. Claims at filing: 1-25
2. Claims 14-22 canceled in a Preliminary Amendment filed March 10, 2004, and claims 26-27 added in an Amendment filed February 6, 2007.
3. Claims pending: 1-13 and 23-27.
4. Claims rejected: 1-13 and 23-27
5. Claims allowed: Claims 6-13 were deemed as allowable subject matter in the First Office action. The Examiner withdraw the allowable subject matter in the Final Office Action.

Thus, the claims on appeal are claims 1-13 and 23-37.

STATUS OF AMENDMENTS

The amendments filed on March 10, 2004 and February 6, 2007, have been entered as understood by the Appellant.

SUMMARY OF INVENTION

The Appellant has added the number in parenthesis for the Board. The numbers without parenthesis were part of the original application.

FIG. 1 is a block diagram that illustrates an exemplary vertical search engine system 10. The vertical search engine system 10 includes, but is not limited to, one or more client network devices 12, 14, 16 (only three of which are illustrated).

The client network devices 12, 14, 16 include, but are not limited to, personal computers, wireless devices, laptop computers, mobile phones, personal information devices, personal digital assistants, hand-held devices, network appliances, pagers, and other types of electronic devices. However, the present invention is not limited to these devices and more, fewer or others types of client electronic devices can also be used.

The client network devices 12, 14, 16 are in communications with a computer network 18 (e.g., the Internet, intranet, etc.). The communication includes, but is not limited to, communications over a wire connected to the client network devices, wireless communications, and other types of communications.

Plural server network devices 20, 22, 24, 26 (only four of which are illustrated) with one or more associated databases 20', 22', 24', 26' are in communications with the computer network 18. The plural network devices 20, 22, 24, 26 are part of a "domain name system" 28. Other server devices 29 (one of which is illustrated) are used to provide access to a vortal created with the present invention and described below. (Application, Page 9, lines 3- 19).

The vertical search engine system 10 further includes one or more (only one is illustrated) vertical search engine servers 30 with associated databases 30'. However, more, fewer or other components can also be used and the present invention is not limited to the illustrated components.

An operating environment for components of the vertical search engine system 10 for preferred embodiments of the present invention include a processing system with at least one high speed Central Processing Unit ("CPU") and a memory. In

accordance with the practices of persons skilled in the art of computer programming, the present invention is described below with reference to acts and symbolic representations of operations or instructions that are performed by the processing system, unless indicated otherwise. Such acts and operations or instructions are referred to as being "computer-executed," "CPU-executed," or "processor-executed."

It will be appreciated that acts and symbolically represented operations or instructions include the manipulation of electrical signals or biological signals by the CPU. An electrical system represents data bits which cause a resulting transformation or reduction of the electrical signals, and the maintenance of data bits at memory locations in a memory system to thereby reconfigure or otherwise alter the CPU's operation, as well as other processing of signals. The memory locations where data bits are maintained are physical locations that have particular electrical, magnetic, optical, or organic properties corresponding to the data bits.

The data bits may also be maintained on a computer readable medium including magnetic disks, optical disks, organic memory, and any other volatile (e.g., Random Access Memory ("RAM")) or non-volatile (e.g., Read-Only Memory ("ROM")) mass storage system readable by the CPU. The computer readable medium includes cooperating or interconnected computer readable medium, which exist exclusively on the processing system or be distributed among multiple interconnected processing systems that may be local or remote to the processing system. (Application, Page 11, line 3 through Page 12, line 6).

A vortal is a specific type of search engine (i.e., vertical search engine) that provides information and resources related only to one (or a small number) specific topic. These sites typically contain focused information, such as "vertical" or "in-depth" information pertinent only to their particular targeted topic of interest. Vortals include information pertinent to a targeted topic of a very small horizontal breath, but a larger depth. Vortals are designed to include "the" source of pertinent information on the World-Wide-Web for a "community of interest." Vortals typically provide news, research and statistics, discussions, newsletters, online tools, and many

other services that educate users about a specific topic. Vortals typically use specialized searching algorithms to search and provide only information about a specific topic.

For example, a vortal may be created for people interested in the sport of golf. On a general search engine, if a user typed in a search using the vague keyword "Tiger" to search for URLs including hyperlinks to information about the golfer Tiger Woods, the general search engine would return thousands of URLs including animals, product names, nick-names, television programs, movie names and a large amount of other information. The user would have to look through a large number of pages to find information on the golfer Tiger Woods.

A user could qualify a search on a general search engine. For example, a user may enter a search using the keywords "Tiger and Golf" or "Tiger Woods." However, such a search on a general search engine still returns information un-related to the golfer Tiger Woods such as information about animals and forestry. In addition, most general search engines and require a user develop some knowledge and expertise on how general search engines work to create and successfully use a qualified search.

In contrast, on a vortal specifically designed for golf, entering a search using the vague keyword "Tiger" would only return information about the golfer Tiger Woods. A user would have to sort through, very little if any, information not related to the golfer Tiger Woods. Even very vague search terms on a vortal can be used to return highly relevant search results for a particular vortal. (Application, page 4, line 9, through page 5, line 14).

FIGS. 3A and 3B are a flow diagram illustrating a Method 56 for creating a vertical search engine. In FIG. 3A at Step 58, a list of plural keywords to be used for the vertical search engine is received on a network device (30). The list of keywords includes general and specific keywords for a selected subject. At Step 60, the list of plural keywords is processed to create a refined list of keywords. The processing includes adding, subtracting or modifying the list of plural keywords.

At Step 62, plural first index files associated with plural first data files are created by checking plural domain names from plural domain name files associated

with a domain name system (28) for a computer network 18. The plural first index files include plural pointers to the associated first data files. The plural data files include plural entries including electronic information extracted from plural web-sites (20, 22, 24, 36) associated with plural active domain names from the plural domain name files.

At Step 64, plural second index files with associated a plural second data files are created by searching the plural first index files for keywords from the refined list of keywords. The plural second index files include plural pointers to the associated plural second data files. The plural second data files include plural entries including electronic information extracted from plural web-sites associated with the plural active domain names for keywords from the refined list of keywords.

In FIG. 3B at Step 66, entries in the plural second index files are verified as appropriate for the selected subject. At Step 68, a final index is created from the verified entries in the plural second index files. At Step 70, a vortal (29, 29') is made accessible on another network device (29) via the computer network (18) for the selected subject using the final index. (Application, page 14, line 22 through page 15, line 20).

GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether Examiner Kim is not fairly considering either the unique features of the Appellant's claimed invention or the Appellant's arguments for patentability based on his comments in the "Response to Arguments" section.
2. Whether Examiner Kim has correctly applied 35 U.S.C. §101 and rejected claims 1-13 and 23-27.
3. Whether Examiner Kim has correctly applied 35 U.S.C. §103 rejecting claims 1, 2, 4 and 23 as being unpatentable over Berstis (U.S. Patent No. 6,490,575, hereinafter referred to as BERSTIS) in view of Brady et al (U.S. Patent No. 6,463,430).
4. Whether Examiner Kim has correctly applied 35 U.S.C. §103 rejecting claims 3, 24 and 25 as being unpatentable over BERSTIS, in view of BRADY, and in further view of *Official Notice*.
5. Whether Examiner Kim has correctly applied 35 U.S.C. §103 rejecting Claim 5 as being unpatentable over BERSTIS, in view of BRADY, and in further view Sullivan et al (U.S. Patent No. 5,956,711).

ARGUMENT

ARGUMENT FOR REJECTION 1

The Appellant would like the Board to know that the Appellant's attorney has been a patent attorney for the past twelve years and has a PhD in computer science. He has successfully prosecuted hundreds of software inventions to issued patents.

Every time a new set of Examiner's is hired, it seems large numbers of improper rejections are sent out by USPTO. As the Board can appreciate, the applicant's (i.e., the clients) of such applications become very angry and frustrated as the appeal process for improper rejections adds years to an examination process that proceeds at a glacial pace.

Respectfully, Examiner Kim is not a primary examiner and his analysis and his rejections of the current matter clearly reflect that fact.

Examiner Kim clearly has shown a bias toward the Appellant is not treating the Appellant's application or the Appellant's comments fairly. In part, because the Appellant has pointed in many errors in the Examiner's analysis of the present application. Something the Appellant clearly has to the right to do under U.S. patent laws. However, Examiner Kim seemed to improperly take serious offense to the Appellant's comments and assertions. The Appellant's attorney has used either the same or similar comments hundreds of times. It is what patent attorney are required to do. Be a zealous advocate of their client's application with the USPTO.

No Examiner has appeared to take such serious offense with the Appellant's

language and argument as Examiner Kim has. The Appellant very respectfully asks the Board to consider the following evidence.

First, in the Appellant filed the current application as a Divisional Application on March 10, 2004, with a Preliminary Amendment filed on the same day. The Preliminary Amendment included claim amendments to cancel claims issued in U.S. Patent No. 6,714,934, with a corresponding parent application filed July 31, 2001, and an amendment for a priority claim to this issued patent. The Examiner did not consider the preliminary amendment at all before sending out his First Office Action.

The Preliminary Amendment was available on the PAIR system. The Examiner clearly should have been able to find and consider the Preliminary Amendment filed by the Appellant.

In the First Office Action, the Examiner asserted a Double Patenting Rejection and Request for a priority claim to the previous application which is a now an issued U.S. Patent. (First Office Action, pages 2-4). Two improper rejections that would not have been necessary if the Examiner had considered the file history for the present application before sending out his First Office Action.

In the Response to First Office Action, the Appellant pointed out to the Examiner that the Appellant had filed a Preliminary Amendment, the Examiner had not considered the Preliminary Amendment, that amended the claims and included a priority claim and that the rejections for the priority claim and the double patenting rejection were clearly improper. (First Response, pages 15 and 16).

In the First Office Action, the Examiner also rejected the Appellant's claim with 101 rejection asserting "the claims directed to a vertical search engine are non-statutory because they do not encompass tangible subject matter and no embodiments which fall into a statutory category." (First Office Action, page 4).

Since the Examiner had missed the Preliminary Amendment and had not considered it at all before sending out his First Office Action, the Appellant also stated the Appellant granted a patent for a vertical search engine by the U.S. Patent Office, as U.S. Patent No. 6,714,934, and the present application was a Divisional application of that application in which the U.S. patent office had already determined that claims directed to a vertical search engine were statutory subject matter. The Appellant did not request the Examiner make any comment on the issued patent. The Appellant was simply pointing that the current application was Divisional of an application that already issued as a patent. (First Response, page 16).

The Examiner then chastised the Applicant for the Applicant's response in the First Office Action and cites MPEP §1701 asserting the Applicant made *an improper inquiry to the Examiner*.

The Examiner asserted "*Likewise employees are cautioned against answering an inquiry concerning any entry in the patent or reexamination file, including the field of search and any entry related thereto.*"

Practitioners shall not make improper inquiries of the patent examining corps." (Underlining added by the Examiner).

The Board will note that the Appellant did not request the Examiner to make any comment about the issued patent by the Appellant. The Appellant instead was

simply trying to point out, that since the Examiner totally missed the Preliminary Amendment filed by the Appellant, that claims directed to vertical search engines had already been determined by the USPTO to fall within a statutory category and it would be beneficial for the Examiner to review the whole file history.

In addition, most of MPEP §1701 is directed to towards the rules for office personal with respect to testifying in legal proceedings.

The Appellant has the right to point out mistakes the Examiner makes in not considering papers filed by the Appellant and making improper rejections based on the missed papers. The Examiner then tries to apply section 1701 to cover up his mistake on not fully considering the whole file history of the application before sending out the First Office Action.

Second, the Examiner asserted “the level of innovation and importance of an invention are not provided any weight in the examination and review of patent applications.” (Final Office Action, Page 10).

This is clearly an error in the application of U.S. patent law. The Examiner should at minimum understand that level of innovation of an invention is exactly what he should be looking at under Section 101, 102 and 103 of the U.S. Patent laws.

The MPEP at section §2172 clearly states “an essential purpose of the examination process is to determine whether or not the claims define an invention that is both novel and nonobvious over the prior art.” The level of innovation of an invention is also used to determine the level of one skilled in the art. MPEP

§2141.03. The Examiner combined references for several 103 rejections and makes

comments about one or ordinary skill in the art. How has the Examiner determined such level of skill when he has stated in writing, that the Examiner has not considered the level of innovation for the Appellant's invention? Clearly an error in the Examiner's analysis.

The importance of an invention is also clearly provided weight in the examination and review of patent applications. 37 C.F.R. 1.102(b) and MPEP §708.01. This is another error in the application of the patent rules by the Examiner, although the Appellant's invention may not directly fit into any of the categories outlined in these sections as deemed "important" by the U.S. Government, the importance of an invention is clearly provided weight during the examiner and review of patent applications.

Third, in the First Office Action, the Examiner indicated Claims 6-13 included allowable subject matter. The Examiner indicated that Claims 6-13 were objected to as being dependent on a base claim, but would be allowable if rewritten in independent format form including all the limitations of the base claim and any intervening claims. (First Office Action, page 9).

In the First Response, the Appellant added two new claims, Claims 26 and 27. Claim 6 was dependent only on Claim 1. Claim 26 included all the dependencies of Claim 1 and Claim 6. Claim 27 included all the dependencies of Claims 1, 6 and 13. The Examiner deemed such claims were allowable. The Examiner made no other comments about these allowable claims.

In the Final Office Action, even though the Examiner had indicated the subject matter was allowable in Claims 6-13, the Examiner rejected Claims 26 and

27 under 35 U.S.C. §101 as been directed to non-statutory subject matter. The Examiner also withdrew his objections to the allowable subject matter in Claims 6-13 and instead instituted a new rejection of claims 6-13. (Final Office Action, Office Action Summary Page, Disposition of the Claims, boxes 6 and 7).

The Examiner asserted that "While claims 6-13 have been indicated as being allowable but objected to as being dependent upon a rejected base claim, the Examiner notes that in order for said claims to be allowable, the rejections under 35 U.S.C. 101 must be overcome." This is clearly a misapplication of U.S. patent law.

This action also clearly violates rule 706.04 of MPEP which deals with rejection of previously allowed claims. This section states that "*A claim noted as allowable shall thereafter be rejected only after the proposed rejection has been submitted to the primary examiner for consideration of all the facts and approval of the proposed action. Great care should be exercised in authorizing such a rejection. See Ex parte Grier, 1923 C.D. 27, 309 O.G. 223 (Comm'r Pat. 1923); Ex parte Hay, 1909 C.D. 18, 139 O.G. 197 (Comm'r Pat. 1909).*"

Examiner Kim is not a primary examiner. Although his primary examiner Mr. Sam Rimell rubber stamped the Final Rejection, there is no indication that any care at all was exercised by Primary Examiner Rimell in authorizing such a final rejection of allowed claims or Examiner Kim in making such a rejection.

In addition, the Examiner applied his incorrect assertions specifically to the Appellant's invention, a vertical search engine, by asserting that "search engines are not necessary to the operability of the Internet." (Final Office Action, Page 10). The Board is urged to stop here and re-read this assertion by the Examiner several

times. How does the Examiner propose anyone find anything on the Internet, which includes in excess of more than 3-4 billion web pages, without search engines?

Fourth, the Examiner rejected Claims 3, 24 and 25 under 35 U.S.C. 103(a) as being unpatentable over BERTIS, in view of BRADY, and in further view of *Official Notice*.

The Examiner made several admissions about BERTIS and BRADY and the Appellant accepted the admissions as follows:

The Examiner admits that BERTIS and BRADY differ from the claimed invention in that they fail to specifically disclose that the DNS for the Internet is included in the DNS for the network (claims 3 and 25). *The Applicant accepts this admission.*

The Examiner admits that BERTIS and BRADY differ from the claimed invention in that they fail to specifically disclose that the opening of a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file (claim 24). *The Applicant accepts this admission.*

The Applicant traversed the assertion of Official Notice taken by the Examiner as follows.

The Examiner is reminded that there must be some form of evidence in the record to support an assertion of Official Notice. *In re Lee*, 277 F.3d at 1344-45 (Fed. Cir. 2002). The Examiner has not provided any such evidence other than to assert that "it would have been obvious to one of ordinary skill in the art at the time the invention was made."

The Applicant traverses this assertion of Official Notice as being defective and improper because: (1) the Examiner admitted that Neither Bertis nor Brady alone or in combination teach the claim limitations the Examiner took Official Notice of; (2) Claims 3, 24 and 25 are dependent claims addition the additional limitations to the corresponding independent claims that are not obvious in combination; (3) these dependent claims add additional limitations to the vertical search engine with the specific features claimed by the Applicant; (4) there were very few vertical search engines in existence period when the Applicant filed the original parent application in 2001 that the current divisional application is based on and there are still very few vertical search engines used at all on the Internet; (5) there were no vertical search engines with the claim elements of the combination of

the independent and dependent claims that the Applicant knew about at the time the application was filed.

Since the Applicant has adequately traversed the Examiner's assertion of Official Notice, the Examiner must provide documentary evidence of proof for the Office Notice with the rejected claim limitations used in a vertical search engine at the time the Applicant filed the application in the next Office action if the rejection is to be maintained. *In re Zurko*, 258 F.3d 1379, 1697(Fed. Cir. 2001). The Applicant respectfully requests such evidence. (First Response, Pages 26-29).

The Examiner asserts "The Applicant has inadequately traversed the Official Notice and is therefore deficient, no document evidence shall be provided by the Examiner. Accordingly, because of the Applicant's inadequate traversal, it is noted the rejections of claims 3 and 24-25 have been modified to indicate that the limitations of the claims, which are well-known in the art, are now taken to be as admitted prior art." (Final Office Action pages 13-14).

The Examiner then goes on to assert that the Appellant should review the MPEP 2144.02, which address the topic of Official Notice. The Examiner underlined for emphasis the statement "including stating why the noticed fact is not considered to be common knowledge or well-know in the art."

These assertions clearly show the Examiner erred in the application of MPEP §2144.02.

As cited the Appellant above in items 1-5 of the Appellant's traversal of official notice and more specifically items 4 and 5, the Appellant specifically stated that since vertical search engines were rare at the time the Appellant filed the parent application in 2001 (and are still rare today), that the combination of features claimed by the Appellant in the dependent claims, along with the features claimed

in the independent claims for vertical search engines could not be considered common knowledge or well-known in the art.

The Board should request that Examiner Kim, without further research and without using the Appellant's vertical search engine products, provide the Board with a list of vertical search engines the Examiner can name from memory. Since vertical search engines are still very rare on the Internet, the Appellant doubts the Examiner (very respectfully or the Board) could even name one vertical search engine from memory. As such, the claimed features of the Appellant's vertical search engine could not be well known and are not well-known or common knowledge in the art at the time the application was filed and are still not now.

The current application, filed in 2004, is a divisional of a parent application filed July 31, 2001. Vertical search engines were not well known in 2001 when the parent application was filed, were not well known in 2004 when the present application was filed and are still not well known.

As further evidence the Appellant submits three articles included as Exhibits C-E.

The first, Exhibit C, written in 2005, entitled, "LookSmart launches Vertical Search Engines Aimed at Targeted Demographics," states LookSmart announced the launch of its first five vertical search engines.

The second, Exhibit D, written in 2006, entitled "What is a vertical search?" states indeed.com one of the first vertical job search engines was founded in 2004. In the third article, Exhibit E, written in 2005, the author says silicon valley is buzzing with vertical search. All of these examples have dates years after 2001 date

the Appellant filed the parent application for this matter. Further evidence the claimed features of the Appellant's invention could not have been well known at the time the application was filed. If the Examiner had fully considered the file history at the time he prepared the First Office Action, none of these arguments would have been necessary.

Finally, the Examiner asserts that "The Applicant has clearly misapplied both case law and patent rules which are clearly stated for software inventions as clarified by the Interim Guidelines." (Final Office Action, Page 9).

However, the Examiner has not stated which cases or patent rules the Appellant has misapplied. The Examiner should read his own words and read the case law and patent rules for software inventions.

The Appellant will point out all of the other errors the Examiner made with respect to his section 101 analysis in the next section.

CONCLUSION FOR REJECTION 1

The Appellant has clearly pointed out the errors made by the Examiner with respect to his application of U.S. Patent Law.

ARGUMENT FOR REJECTION 2

The Examiner asserted that Claims 1-13 are rejected under 35 U.S.C. 101 because “the claimed invention is directed towards non-statutory subject matter. The claims are directed toward ‘a method for creating a vertical search engine’ and are non-statutory because they do not encompass tangible subject matter and/or embodiments which fall within a statutory category. The claims make no mention of a tangible medium wherein existing code may be processed to perform the recited claims. See *State Street Bank* and MPEP 2106. The claimed invention as a whole must accomplish a practical application. The claimed invention as a whole must accomplish a practical application. That is it must produce a ‘useful, concrete and tangible result (emphasis on tangible added by the Examiner).

The Examiner further asserts “in the present application,...more importantly fail to recite a ‘useful, concrete and tangible result.’ The method claims may be considered to be software, per se, since the claims fail to be integrated into a computer hardware system for execution. Therefore, since the claims simply recite steps of implementation, said claims constitute non-statutory subject matter by failing to fall into a statutory category. (Final Office action pages 2-3).

Claim 1 recites:

1. A method for creating a vertical search engine, comprising:
receiving a list of a plurality of keywords to be used for the vertical search engine on a network device, wherein the list of keywords includes general and specific keywords for a selected subject;
processing the list of plurality of keywords to create a refined list of keywords, wherein the processing includes adding, subtracting or modifying automatically the list of plurality of keywords;
creating a plurality of first index files associated with a plurality of first data

files by checking a plurality of domain names from a plurality of domain name files associated with a domain name system for a computer network, wherein the plurality of first index files include a plurality of pointers to the associated data files, and wherein the plurality of first data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files;

creating a plurality of second index files with associated plurality of second data files by searching the plurality of first index files for keywords from the refined list of keywords, wherein the plurality of second index files include a plurality of pointers to the associated plurality of second data files, and wherein the plurality of second data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with the plurality of active domain names for keywords from the refined list of keywords;

verifying that entries in the plurality of second index files are appropriate for the selected subject;

creating a final index from the plurality of entries first index; and

making a vortal accessible on another network device via the computer network for the selected subject using the final index.

There are many errors with the Examiner's assertions. First, the Board will note that for the purposes of an eligibility requirement, a physical transformation "is not an invariable requirement." AT&T, 172 F.3d at 1358-59. Even though the Examiner insists that it is.

The MPEP clearly states that USPTO personal shall review the claims to determine if the invention produces a *useful, tangible, and concrete result*. The Board will note that making this determination, the focus is not on whether the steps taken to achieve a particular result are useful, tangible, and concrete, but rather on whether the final result achieved by the claimed invention is "useful, tangible, and concrete." MPEP §2106.

The criteria for determining a useful, tangible and concrete result are clearly set forth in the MPEP in §2106. Criteria the Examiner did not follow in this matter.

The MPEP clearly states in determining whether a claim provides a practical application of a 35 U.S.C. 101 that produces a useful, tangible, and concrete result, USPTO personnel should consider and weigh these factors.

(a) USEFUL: The USPTO's official interpretation of the useful utility requirement provides that the utility of an invention has to be (i) specific, (ii) substantial and (iii) credible. MPEP § 2107 and *Fisher*, 421 F.3d at 1372, 76 USPQ2d at 1230.

(i) Specific: A "specific utility" is *specific* to the subject matter claimed and can "provide a well-defined and particular benefit to the public." *In re Fisher*, 421 F.3d 1365, 1371, 76 USPQ2d 1225, 1230 (Fed. Cir. 2005).

The claimed invention clearly is specific. It creates a vertical search engine vortal for a pre-determined set of keywords by gathering and processing information from the Internet or other computer network. The vertical search engine provides a *greater depth than breath* for the keywords. The claimed invention provides a well-defined and particular benefit to the public, namely, offering a user an alternate method over other available general search engines (e.g., Google, Yahoo, Ask, etc.) that provide greater breath than depth, for selected keywords to more easily and concisely search for information based on selected keywords available the Internet or other computer networks with a user having to manually process information themselves by viewing and rejecting unwanted or inappropriate information. Thus, the claimed invention is *specific* under the holding of *In re Fisher*.

(ii) Substantial: An application must show that an invention is useful to the public as disclosed in its current form, not that it may prove useful at some future

date after further research. Simply put, to satisfy the 'substantial' utility requirement, an asserted use must show that the claimed invention has a significant and presently available benefit to the public." *Fisher*, 421 F.3d at 1371, 76 USPQ2d at 1230.

The claimed invention clearly is useful to the public as disclosed in its current form. In fact the Applicant has a viable business enterprises based in part on the claimed invention providing vertical search engine vortals via the Internet and other computer networks. The Board is encouraged to visit the URLs "http://www.logika.net/prod_vert.asp" and "http://platinum.fusionbot.com." Print outs from these web pages are included as Exhibits F and G.

The claimed invention has a significant and presently available benefit to the public. It allows a user to access a vertical search engine on a selected topic (e.g., Golf) and type in fewer keywords for more abstract keywords (e.g., Tiger for information on Tiger Woods, etc.) than is possible on a general search engine and be relieved of the burden of manually processing unwanted and inappropriate information. Thus, the claimed invention is *substantial* under the holding of *In re Fisher*.

(iii) Credible: An applicant need only make one credible assertion of specific utility for the claimed invention to satisfy 35 U.S.C. 101. See, e.g., *Raytheon v. Roper*, 724 F.2d 951, 958, 220 USPQ 592, 598 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 835 (1984) holding when a properly claimed invention meets at least one stated objective, credible utility under 35 U.S.C. 101 is clearly shown. Thus, the claimed invention is credible under the holding of *In re Fisher*.

Thus, the claimed invention clearly produces useful results, namely, providing another type of search engine, a vertical search engine, providing searches with more depth than breath, for a users of the Internet and other computer networks.

(b) **TANGIBLE:** First, the tangible requirement does not necessarily mean that a claim must either (1) be tied to a particular machine or apparatus or (2) must operate to change articles or materials to a different state or thing. MPEP §2106.

The Examiner places great emphasis on the Appellant's invention not being tangible because it is allegedly not integrated into any computer hardware system for integration.

The claimed invention is actually tied to a particular machine, or apparatus (i.e., a network device) and changes articles or materials to a different state or thing.

Claim 1 recites "*receiving a list of a plurality of keywords to be used for the vertical search engine on a network device;*" and "making a vortal accessible on another network device via the computer network for the selected subject using the final index."

First, the claimed invention is tied to tow particular machines or apparatus, namely, a network device and another network device which both include a computer hardware system used for execution:

Clearly, the Examiner does not understand computer science or engineering nor the patent law since the Examiner is asserting, a hardware device with one or more processors and a memory executing instructions to perform the invention is not a computer hardware system.

First, a network device would clearly be recognized by someone even with a minimal skill in the art to be a computer hardware system for execution.

Second, the Appellant's application clearly teaches that a network device (e.g., FIG. 1, 30) that accepts and processes keywords into a vortal and another network device (e.g., FIG. 1, 29) that makes the vortal available via the computer network such as the Internet (FIG. 1, 18) are computer hardware systems used for execution.

The Appellant clearly defines one type of network device as a client network device. *The client network devices 12, 14, 16 include, but are not limited to, personal computers, wireless devices, laptop computers, mobile phones, personal information devices, personal digital assistants, hand-held devices, network appliances, pagers, and other types of electronic devices.* (Application, page 9, lines 6-10).

All of these network device are clearly computer hardware systems for execution. There is no way the Examiner can argue otherwise.

The Appellant also defines another type of a network device as a server network device (**Application, page 9, lines 15-19**).

The Appellant further teaches these server network devices *"include a processing system with at least one high speed Central Processing Unit ("CPU") and a memory. In accordance with the practices of persons skilled in the art of computer programming, the present invention is described below with reference to acts and symbolic representations of operations or instructions that are performed by the processing system, unless indicated otherwise. Such acts and operations or instructions are referred to as being "computer-executed," "CPU-executed," or "processor-executed." It will be appreciated that acts and symbolically represented operations or instructions include the manipulation of electrical signals or biological signals by the CPU. An electrical system represents data bits which cause a resulting transformation or reduction of the electrical signals, and the maintenance of data bits at memory locations in a memory system to thereby reconfigure or otherwise alter the CPU's operation, as well as other processing of signals. The memory locations where*

data bits are maintained are physical locations that have particular electrical, magnetic, optical, or organic properties corresponding to the data bits.

The data bits may also be maintained on a computer readable medium including magnetic disks, optical disks, organic memory, and any other volatile (e.g., Random Access Memory ("RAM")) or non-volatile (e.g., Read-Only Memory ("ROM")) mass storage system readable by the CPU. The computer readable medium includes cooperating or interconnected computer readable medium, which exist exclusively on the processing system or be distributed among multiple interconnected.

(Application, page 11, line 7 through page 12, line 6).

This description clearly makes the server network devices statutory under 35 USC 101 since the server network device is a "machine" with a CPU that is programmed to transform memory bits based on electronic signals from one state into another based on programmed instructions. Such hardware computer machine with CPU and a processor programmed with computer software has been patentable since *Benson*.

Third, the claimed invention changes articles or materials to a different state or thing. The claimed invention processes a list of keywords to create a refined list, a change in the list of keywords. The claimed invention also changes a first set of index files into and a second set of index files and creates a final index fro the second set of index files that is used for a vortal. In addition, these changes in software elements are at the lowest level changes in bits in a memory on the server network device and are manipulated by a CPU, a programmed machine. How, can the Examiner not understand such a simple computer engineering concept?

This description clearly makes the claim statutory under 35 USC 101 since the claimed invention changes articles (i.e., data bits in memory of the server device) into several different states of things.

The claimed invention clearly produces a practical application that produces a real-world result, namely, a vertical search engine vortal created from keywords and by processing and summarizing information associated with the keywords from and presenting to a user a unique type of search engine that includes more depth than breath for the keywords that is used from a computer network like the Internet.

What more tangible result can a user of the Internet be provided than a specific kind of search engine that relieves a user from manually viewing, processing and eliminating inappropriate or unwanted information? How else would a user obtain information from the Internet without a search engine?

Thus, the Appellant's claimed invention clearly produces tangible results. It is clearly incorrect for the Examiner to assert otherwise.

(c) **Concrete:** The MPEP at 2106 states "Usually, this question arises when a result cannot be assured. In other words, the process must have a result that can be substantially repeatable or the process must substantially produce the same result again. *In re Swartz*, 232 F.3d 862, 864, 56 USPQ2d 1703, 1704 (Fed. Cir. 2000).

The claimed invention includes a process that is substantially repeatable that substantially produces the same results. What good would a search engine be if a user couldn't repeat a search or obtain the same results?

Thus, the Appellant's claimed invention is clearly *concrete*. It is clearly incorrect for the Examiner to assert otherwise.

The Examiner asserts that "search engines are not necessary to the operability of the Internet." (Final Office Action, page 10). The only way this statement is true is that no person in the world anywhere ever desired to find any information on the Internet. This assertion show either the Examiner clearly understand nothing about the Internet or is clearly biased towards the Appellant's invention, or both.

The Appellant's claimed invention illustrated by Claim 1 is clearly is statutory subject matter and clearly produces useful, concrete and tangible result under all case law as well as the Interim Examination Guidelines.

The Examiner further asserts "Applicant asserts the argument that claim 2 does include a computer readable medium. The Examiner agrees. However, for the purposes of clarification, it is noted that the rejection of Claim 2 under 35 U.S.C. 101 is sustained in that claim 2 fails to remedy the non-statutory subject matter deficiencies of Claim 1. That is while Claim 2 recites 'the method of Claim 1 further comprising a computer readable medium have stored therein instructions for causing a processor to execute the steps of the method.' That is the limitations of Claim 2 may be considered to be software, per se, since the claims fail to be integrated into a computer hardware system for execution. Since the claim simply recites that the instructions are "for causing a process to execute the steps of the method" and fails to claim a process where an integrated computer hardware system

is executing the computer program's instructions, the claim fails to qualify as a process claim and is considered non-statutory functional descriptive material."

Respectfully, this analysis borders on being nonsensical. The Appellant ponders whether the Examiner understands what the components of a computer include. First, as was illustrated above Claim 1 is clearly statutory subject matter. Second, Claim 2 includes a computer readable medium (i.e., hardware, e.g., a memory, floppy disk, CD-Rom, RAM, ROM, etc.) having stored therein instructions (i.e., software, e.g., a program) for causing a processor (i.e., hardware) to execute the steps of the method (i.e., a programmed machine including a processor, a memory, instructions executed in memory to output a useful, concrete and tangible result). Thus, this claim clearly recites a hardware and software system in a statutory category, namely, a programmed machine. Such a programmed machine with hardware and software components has been statutory since *Benson*.

In addition, the Examiner has stated that Claim 2 includes non-statutory subject matter. As late as October 2007, other Examiner's at the USPTO have found the similar language to encompass statutory subject matter by simply mentioned "computer readable mediums" and not mentioning a processor as the Appellant has in this matter. In addition, the USPTO has granted a large number of patents filed and prosecuted by the Appellant's attorney with hundreds of dependent claims with exactly the same language as is illustrated in Claim 2. The Appellant understand every matter is considered on its own merits for patentability. However, the Examiner's analysis is clearly wrong with respect to this dependent claim.

CONCLUSION FOR REJECTION 2

The Appellant has clearly illustrated why the Section 101 rejection of Claims 1-13 and 26-27 is mis-application of U.S. Patent Law and Rules. Thus, the Section 101 must be immediately withdrawn.

ARGUMENT FOR REJECTION 3

Independent Claims 1 and 23

The Examiner is reminded that to establish a *prima facie* case of obviousness in the first place, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all of the claim limitations. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

The Examiner is reminded that to establish a case of *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested. *In re Royka* 400 F.2d 981 (CCPA 1974).

The Examiner asserts that BERSTIS, in combination with BRADY, discloses all of the elements in Independent Claims 1 and 23.

However, the Examiner meticulously cited sections of BERSTIS and BRADY for all the elements of independent Claim 1, except for two claim elements. The Examiner did not find anywhere in BERSTIS or BRADY individually, or the combination thereof, at least two elements of independent Claim 1 including: “*verifying that entries in the plurality of second index files are appropriate for the selected subject; and*

making a vortal accessible on another network device via the computer network for the selected subject using the final index.”

The Examiner again was incomplete and sloppy in his analysis.

Since the prior art references do not teach all of the claim elements by the Examiners own words and analysis, the Examiner has not established a prima facie case of obviousness in violation of the holding of *In re Vaeck* and *In re Royka*. Thus, Section 103 rejection is clearly improper, must be immediately withdrawn. The Applicant need not respond any further because the Examiner has not established a prima facie case of obviousness.

The Examiner, failing to find a teaching for all the claim elements in the combination of BERSTIS and BRADY then tries to overcome his failings but stating the missing claim elements are obvious by simply asserting "It would have been obvious to one of ordinary skill in the art at the time the invention was created to verify that the entries in the second index files fall within the selected subject for the vortal. Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was created to have the vortal available for access by another network device via a general computer network. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the inventions suggested by BERSTIS and BRADY."

The Examiner's assertions are clearly is mis-application of U.S. Patent Law. The Examiner simply cannot say claim elements he does not find in the combination of references are obvious to one of ordinary skill in the art.

The holding of *All-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308 (Fed. Cir. 1999) clearly states “the level of skill in the art cannot be relied upon to provide the suggestion to combine references.”

The holding of *Ex Parte Levengood*, 217 F.3d 1365 (Fed. Cir. 2000) also clearly states a making a statement that a claimed invention would have been within the ordinary skill of the art at the time the invention was made is not sufficient to establish a *prima facie* case of obviousness.

The Examiner then asserts “One of ordinary skill in the art would have been motivated to do this modification so that in creating a vertical search engine, keywords are processed to be included in a final index such that the final index correlates to a specific subject or topic.”

The Examiner is reminded that the mere fact that the references can be combined or modified (which is not the case in this matter) does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990). Neither BERSTIS and BRADY suggest such a combination, and in fact teach away from such a combination as is discussed below.

The Examiner is reminded that a *prima facie* case of obviousness can be rebutted by showing that the art, in any material respect teaches away from the claimed invention. *In re Geisler*, 116 F.3d 1465 (Fed. Cir. 1997).

Berstis teaches “Conventional search engine applications maintain a centralized keyword index which consumes considerable space and requires frequent and time consuming updates. The problem of traffic overload on conventional search engines caused by such centralized functionality can be

eliminated by first migrating and distributing a portion of the searching and indexing functionality to local sites and servers...local sites support local search engines which perform indexing of all pages maintained at each respective site. A global, top-level search engine maintains and periodically updates its own master index. During such updates, the global search engine incorporates information from the locally maintained indices at each Web site. In an alternate embodiment, the global search engine would retrieve only the Internet Protocol (IP) address of the local sites associated with word-to-page links relating to the searched words. In this manner, when a user commences a search, the global search engine responds by providing a list of sites (site addresses) rather than page addresses.” (Col. 4, lines 55-67).

Brady teaches an automated method of creating and updating a database of resumes and related documents (Abstract).

The claimed invention has no such limitations. Thus, Bertsis alone, Brady alone and the combination thereof clearly teaches away from the claimed invention in several material respects. Therefore, even if the Examiner had established a *prima facie* case of obviousness, and as discussed above, the was not true in this matter since the Examiner did not find all of the claimed elements of the claimed invention, any *prima facie* case of obviousness is rebutted based on the holding of *In re Giesler*.

The Examiner is also reminded that if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984).

Berstis teaches "Conventional search engine applications maintain a centralized keyword index which consumes considerable space and requires frequent and time consuming updates. The problem of traffic overload on conventional search engines caused by such centralized functionality can be eliminated by first migrating and distributing a portion of the searching and indexing functionality to local sites and servers. In one embodiment of the present invention, local sites support local search engines which perform indexing of all pages maintained at each respective site (Col. 4, lines 48-54). Berstis also teaches requirement of using local search engines which perform indexing of all pages maintained at each respective local site instead of spiders or crawlers to update a centralized keyword index. (Col. 4, lines 55-67).

Brady teaches: "One particular aspect of this embodiment is where said method is used to create or update a database of publicly available resumes retrieved from a network of documents." (Col. 6, lines 1-3). Brady also teaches use of a 'spider or 'crawler that refers to a sequence of computer commands in the form of a computer program, subroutine or the like, that locate and retrieve documents according to specified criteria from a network of documents, such as, the Internet, the World Wide Web, LANs, intranets, or the like. (Col. 4, lines 11-15). "For example in the instance where the spider is retrieving publicly available resumes and publications from the web, a retrieved resume may provide a link to a publication directed to subject matter that is relevant to the position that is to be filled." (Col. 5, lines 10-19).

Since Brady requires use of a spider or crawler and Bertsis in part was created to eliminate the use of a spider or crawler by requiring use of local search engines, combining Brady and Bertsis makes Bertsis unsatisfactory for one of its intended purposes of eliminating use of spiders and crawlers. Therefore, there is no suggestion or motivation to make the proposed modification based on the holding of *In re Grady*.

The Examiner is also reminded that evidence supporting no reasonable expectation of success of combining two references supports a conclusion of nonobviousness; *In re Reinhart*, 531 F.2d 1048 (CCPA 1976) and if the proposed modification or combination of the prior art would change the principal operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti* 270 F.2d 810 (CCPA 1959).

Bertsis, which eliminates the need for spider or crawlers by requiring local search engines on each site, could not be combined with Brady, which requires the use of spiders and crawlers to obtain resumes from the Internet, cannot be successfully combined because the combination would change the principle operation of Bertsis. Thus, the combination of Bertsis and Brady cannot render the claims *prima facie* obvious based on the holdings of *In re Reinhart* and *In re Ratti*.

Thus, Claims 1 and 23 are not obvious and the rejections of Claims 1 and 23 are improper. Therefore the rejection of Claims 1 and 23 must be immediately withdrawn.

Dependent Claims 2 and 4

The arguments for independent Claims 1 and 23 are incorporated by reference. Claims 2 and 4 are dependent claims that add additional limitations not included in the corresponding independent claims. The Examiner is reminded that if an independent claim is nonobvious under 35 U.S.C. 103, than any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Thus, Claims 2 and 4 are not obvious and the rejections of Claims 2 and 4 are improper. Therefore the rejection of Claims 2 and 4 must be immediately withdrawn.

CONCLUSION FOR REJECTION 3

Thus, Claims 1, 2, 4 and 23 are not obvious and the rejections of these claims are improper. Therefore the rejection of claims must be immediately withdrawn.

ARGUMENT FOR REJECTION 4

The Examiner **admitted** that BERTIS and BRADY differ from the claimed invention in that they fail to specifically disclose that the DNS for the Internet is included in the DNS for the network (claims 3 and 25). (First Office Action, Page 7) *The Applicant accepted this admission.* (First Response, pages 25)

The Examiner **admitted** that BERTIS and BRADY differ from the claimed invention in that they fail to specifically disclose that the opening of a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file (claim 24). (First Office Action, Page 7). *The Applicant accepts this admission.* (First Response, page 25).

The Examiner asserted the Applicant had inadequately traversed the taking of Official Notice. This is clearly an erroneous assertion by the Examiner. The Appellant repeats the arguments made above.

The Applicant traversed the assertion of Official Notice taken by the Examiner as follows.

The Examiner is reminded that there must be some form of evidence in the record to support an assertion of Official Notice. *In re Lee*, 277 F.3d at 1344-45 (Fed. Cir. 2002). The Examiner has not provided any such evidence other than to assert that “it would have been obvious to one of ordinary skill in the art at the time the invention was made.”

The Applicant traverses this assertion of Official Notice as being defective and improper because: (1) the Examiner admitted that Neither Bertis nor Brady alone or in combination teach the claim limitations the Examiner took Official Notice of; (2) Claims 3, 24 and 25 are dependent claims addition the additional limitations to the corresponding independent claims that are not obvious in combination; (3) these dependent claims add additional limitations to the vertical search engine with the specific features claimed by the Applicant; (4) there were very few vertical search engines in existence period when the Applicant filed the original parent application in 2001 that the current divisional application is based on and there are still very few vertical search engines used at all on the Internet; (5) there were no vertical search engines with the claim elements of the combination of the independent and dependent claims that the Applicant knew about at the time the application was filed.

Since the Applicant has adequately traversed the Examiner's assertion of Official Notice, the Examiner must provide documentary evidence of proof for the Office Notice with the rejected claim limitations used in a vertical search engine at the time the Applicant filed the application in the next Office action if the rejection is to be maintained. *In re Zurko*, 258 F.3d 1379, 1697(Fed. Cir. 2001). The Applicant respectfully requests such evidence. (First Response, Pages 26-29).

The Examiner asserts "The Applicant has inadequately traversed the Official Notice and is therefore deficient, no document evidence shall be provided by the Examiner. Accordingly, because of the Applicant's inadequate traversal, it is noted the rejections of claims 3 and 24-25 have been modified to indicate that the limitations of the claims, which are well-known in the art, are now taken to be as admitted prior art." (Final Office Action pages 13-14).

The Examiner then goes on to assert that the Appellant should review the MPEP 2144.02, which address the topic of Official Notice. The Examiner underlined for emphasis the statement "including stating why the noticed fact is not considered to be common knowledge or well-know in the art."

These assertions clearly show the Examiner erred in the application of MPEP §2144.02.

As cited the Appellant above in items 1-5 of the Appellant's traversal of official notice and more specifically items 4 and 5, the Appellant specifically stated that since vertical search engines were rare at the time the Appellant filed the parent application in 2001 (and are still rare today), that the combination of features claimed by the Appellant in the dependent claims, along with the features claimed in the independent claims for vertical search engines could not be considered common knowledge or well-known in the art.

The Board should request that Examiner Kim, without further research and without using the Appellant's vertical search engine products, provide the Board with a list of vertical search engines the Examiner can name from memory. Since vertical search engines are still very rare on the Internet, the Appellant doubts the Examiner (very respectfully or the Board) could even name one vertical search engine from memory. As such, the claimed features of the Appellant's vertical search engine could not be well known and are not well-known or common knowledge in the art at the time the application was filed and are still not now.

The current application, filed in 2004, is a divisional of a parent application filed July 31, 2001. Vertical search engines were not well known in 2001 when the parent application was filed, were not well known in 2004 when the present application was filed and are still not well known.

As further evidence the Appellant submits three articles included as Exhibits C-E.

The first, Exhibit C, written in 2005, entitled, "LookSmart launches Vertical Search Engines Aimed at Targeted Demographics," states LookSmart announced the launch of its first five vertical search engines.

The second, Exhibit D, written in 2006, entitled "'What is a vertical search?'" states indeed.com one of the first vertical job search engines was founded in 2004. In the third article, Exhibit E, written in 2005, the author says silicon valley is buzzing with vertical search. All of these examples have dates years after 2001 date the Appellant filed the parent application for this matter. Further evidence the claimed features of the Appellant's invention could not have been well known at the time the application was filed. If the Examiner had fully considered the file history

at the time he prepared the First Office Action, none of these arguments would have been necessary.

CONCLUSION FOR REJECTION 4

Thus, the rejections of Claims 3, 24 and 25 are improper. Therefore the rejection of Claims 3, 24 and 25 must be immediately withdrawn.

ARGUMENT FOR REJECTION 5

The Examiner **admitted** that BERSTIS and BRADY differ from the claimed invention in that they fail to specifically disclose the method of eliminating generic keywords and adding synonyms and modified spellings of keywords to the list (claim 5). *The Applicant accepted this admission.*

The Arguments for Claims 1 and 23 are incorporated by reference. Since the Applicant clearly explained by BERSTIS and BRADY were not obvious and the Examiner admitted that BERSTIS and BRADY did not teach the claim limitations of Claim 5, the combination of BERSTIS, BRADY and SULLIVAN cannot teach the limitations of Claim 5.

Claim 5 is a dependent claim that add additional limitations not included in the corresponding independent claims. The Examiner is reminded that if an independent claim is nonobvious under 35 U.S.C. 103, than any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

CONCLUSION FOR REJECTION 5

Thus, the rejections of Claim 5 is improper. Therefore the rejection of Claim 5 must be immediately withdrawn.

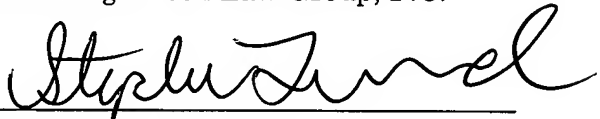
CONCLUSION FOR ALL ISSUES

For the foregoing reasons, Appellant submits that all of the Examiner's rejection of claims 1-13 and 23-27 are clearly erroneous. Accordingly, Appellant respectfully requests that the Appeal Board reverse all of the Examiner's rejection of claims 1-13 and 23-27 and immediately pass all claims 1-13 and 23-27 to allowance.

Respectively submitted:

Lesavich High-Tech Law Group, P.C.

Date: October 27, 2007

By: 
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CLAIMS LISTING APPENDIX

Claims 1-13 and 23-27.

1. **(Original)** A method for creating a vertical search engine, comprising:
receiving a list of a plurality of keywords to be used for the vertical search engine on a network device, wherein the list of keywords includes general and specific keywords for a selected subject;
processing the list of plurality of keywords to create a refined list of keywords, wherein the processing includes adding, subtracting or modifying automatically the list of plurality of keywords;
creating a plurality of first index files associated with a plurality of first data files by checking a plurality of domain names from a plurality of domain name files associated with a domain name system for a computer network, wherein the plurality of first index files include a plurality of pointers to the associated data files, and wherein the plurality of first data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files;
creating a plurality of second index files with associated plurality of second data files by searching the plurality of first index files for keywords from the refined list of keywords, wherein the plurality of second index files include a plurality of pointers to the associated plurality of second data files, and wherein the plurality of second data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with the plurality of active domain

names for keywords from the refined list of keywords;

verifying that entries in the plurality of second index files are appropriate for the selected subject;

creating a final index from the plurality of entries first index; and

making a vortal accessible on another network device via the computer network for the selected subject using the final index.

2. **(Original)** The method of Claim 1 further comprising a computer readable medium having stored therein instructions for causing a processor to execute the steps of the method.

3. **(Original)** The method of Claim 1 wherein the domain name system for the computer network includes the Domain Name System for the Internet.

4. **(Original)** The method of Claim 1 wherein the plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files include a title, description, a uniform resource locator, or a pre-determined amount of electronic content associated with a web-site associated with an active domain name.

5. **(Original)** The method of Claim 1 wherein the processing step includes:
eliminating keywords that are too generic or have multiple meanings;
modifying keywords by adding alternative spellings or additional words; and
adding automatically synonyms for keywords to the list of plurality of
keywords to create the refined list of keywords.

6. **(Original)** The method of Claim 1 wherein the step of creating a plurality
of first index files includes:

opening a plurality of top-level domain name files associated with the domain
name system for the computer network;

checking a plurality of domain names from the plurality of open top-level
domain name files to determine whether any of the plurality of domain names are
associated with an active web-site on the computer network;

extracting domain names in the plurality of open top-level domain name files
associated with active web-sites on the computer network;

storing the extracted domains names in a plurality of entries in a plurality of
separate files, thereby creating a plurality of separate files including the plurality of
entries; and

sorting each of the plurality of separate files based on a pre-determined
sorting scheme to create a plurality of sorted separate files.

7. **(Original)** The method of Claim 6 wherein the step of opening a plurality
of top-level domain name files associated with a domain name system including
opening a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file

associated with the Internet domain name system.

8. **(Original)** The method of Claim 6 wherein the checking step includes attempting to visit a web-site on the computer network with a software spider to determine whether the web-site is active.

9. **(Original)** The method of Claim 6 wherein the checking step includes extracting electronic content from an active web-site on the computer network.

10. **(Original)** The method of Claim 6 wherein the extracting step includes:

(a) adding a first individual character component to a first file based on the first character of an entry, when the first individual character component was derived from an entry in one of the plurality of open top-level domain name files;

(b) moving the first character of the first individual character component to an end of the first individual character component, thereby exposing a next character and creating a next individual character component;

(c) adding the next individual character component to a next file based on the next character of the first individual character component;

(d) moving the next character of the next individual character component to an end of the next individual character component, thereby exposing a (next character+1) and creating a (next character+1) individual character component;

(e) adding the (next character+1) individual character component to a (next character+1) file based on the (next character+1) of the (next character+1) individual character component;

(f) repeating steps (d) and (e) until first character of the first individual character component is reached.

11. **(Original)** The method of Claim 6 wherein the storing step includes storing the plurality of individual character components in a plurality of separate files including one file for each letter of the English alphabet (A-Z), and the numbers zero through nine.

12. **(Original)** The method of Claim 6 wherein the sorting step includes sorting each of the plurality of separate files based on an ASCII value of characters stored in the plurality of separate files.

13. **(Original)** The method of Claim 1 wherein the step of creating a plurality of first index files includes:

(a) selecting a keyword from the refined list of keywords;
(b) determining whether the selected keyword comprises multiple words, and if so,

(c) selecting a word with the greatest number of individual characters from the multiple words comprising the selected keyword,

(d) opening a one of a plurality of sorted separate files based on a first character of the selected word from the selected keyword, wherein the plurality of sorted separate file were created by indexing a plurality of domain name files associated with a domain name system for the refined list of keywords, and

(e) searching the open sorted separate file for the selected word from

the selected keyword,

(f) repeating steps (c) through (e) for remaining words in the selected keyword;

and if not,

(g) opening a one of a plurality of sorted separate files based on a first character of the selected keyword, wherein the plurality of sorted separate file were created by indexing a plurality of domain name files associated with a domain name system for the refined list of keywords, and

(h) searching the open sorted separate file for the selected keyword;

(i) determining whether the selected keyword has been found in the open separate sorted, file, and if so,

(j) adding an entry to a first index file for the selected keyword;

(k) repeating steps (a), (b) and (i) for remaining keywords from the refined list of keywords.

14.-22 (Canceled).

23. **(Original)** A vertical search engine system, comprising in combination:
a vertical search engine server with associated database for indexing and searching a plurality of top-level domain name files associated with a domain name system for a computer network for a selected list of keywords for a selected topic, for indexing and searching electronic content from a plurality of web-sites identified by a plurality of domain names from the plurality of top-level domain name files and for creating a vortal index from the indexed plurality of top-level domain name files and the electronic content from the plurality of web-sites; and

a protocol stack on the vertical search engine server for communicating with other network devices on the computer network; and

a server network device for making a vortal accessible on a network device via the computer network for a selected subject using the vertical index created by the vertical search engine server.

24. **(Original)** The vertical search engine system of Claim 23 top-level domain name files associated with a domain name system including opening a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file associated with the Internet Domain Name system.

25. **(Original)** The vertical search engine system of Claim 23 wherein the domain name system for the computer network includes the Domain Name System for the Internet.

26. **(Original)** A method for creating a vertical search engine, comprising:
receiving a list of a plurality of keywords to be used for the vertical search engine on a network device, wherein the list of keywords includes general and specific keywords for a selected subject;

processing the list of plurality of keywords to create a refined list of keywords, wherein the processing includes adding, subtracting or modifying automatically the list of plurality of keywords;

creating a plurality of first index files associated with a plurality of first data files by checking a plurality of domain names from a plurality of domain name files

associated with a domain name system for a computer network, wherein the plurality of first index files include a plurality of pointers to the associated data files, and wherein the plurality of first data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files, wherein the step of creating the plurality of first index files includes:

opening a plurality of top-level domain name files associated with the domain name system for the computer network;

checking a plurality of domain names from the plurality of open top-level domain name files to determine whether any of the plurality of domain names are associated with an active web-site on the computer network;

extracting domain names in the plurality of open top-level domain name files associated with active web-sites on the computer network;

storing the extracted domains names in a plurality of entries in a plurality of separate files, thereby creating a plurality of separate files including the plurality of entries; and

sorting each of the plurality of separate files based on a pre-determined sorting scheme to create a plurality of sorted separate files;

creating a plurality of second index files with associated plurality of second data files by searching the plurality of first index files for keywords from the refined list of keywords, wherein the plurality of second index files include a plurality of pointers to the associated plurality of second data files, and wherein the plurality of second data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with the plurality of active domain

names for keywords from the refined list of keywords;

verifying that entries in the plurality of second index files are appropriate for the selected subject;

creating a final index from the plurality of entries first index; and

making a vortal accessible on another network device via the computer network for the selected subject using the final index.

27. (Original) A method for creating a vertical search engine, comprising:

receiving a list of a plurality of keywords to be used for the vertical search engine on a network device, wherein the list of keywords includes general and specific keywords for a selected subject;

processing the list of plurality of keywords to create a refined list of keywords, wherein the processing includes adding, subtracting or modifying automatically the list of plurality of keywords;

creating a plurality of first index files associated with a plurality of first data files by checking a plurality of domain names from a plurality of domain name files associated with a domain name system for a computer network, wherein the plurality of first index files include a plurality of pointers to the associated data files, and wherein the plurality of first data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files, wherein the step of creating a plurality of first index files includes:

(a) selecting a keyword from the refined list of keywords;

(b) determining whether the selected keyword comprises multiple words, and

if so,

(c) selecting a word with the greatest number of individual characters from the multiple words comprising the selected keyword,

(d) opening a one of a plurality of sorted separate files based on a first character of the selected word from the selected keyword, wherein the plurality of sorted separate file were created by indexing a plurality of domain name files associated with a domain name system for the refined list of keywords, and

(e) searching the open sorted separate file for the selected word from the selected keyword,

(f) repeating steps (c) through (e) for remaining words in the selected keyword;

and if not,

(g) opening a one of a plurality of sorted separate files based on a first character of the selected keyword, wherein the plurality of sorted separate file were created by indexing a plurality of domain name files associated with a domain name system for the refined list of keywords, and

(h) searching the open sorted separate file for the selected keyword;

(i) determining whether the selected keyword has been found in the open separate sorted, file, and if so,

(j) adding an entry to a first index file for the selected keyword;

(k) repeating steps (a), (b) and (i) for remaining keywords from the refined list of keywords;

creating a plurality of second index files with associated plurality of second data files by searching the plurality of first index files for keywords from the refined

list of keywords, wherein the plurality of second index files include a plurality of pointers to the associated plurality of second data files, and wherein the plurality of second data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with the plurality of active domain names for keywords from the refined list of keywords;

verifying that entries in the plurality of second index files are appropriate for the selected subject;

creating a final index from the plurality of entries first index; and

making a vortal accessible on another network device via the computer network for the selected subject using the final index.

EVIDENCE APPENDIX

The Appellant has cited various sections of the following documents included as Exhibits A-G via this Evidence Appendix in the arguments in the preceding pages.

1. **Exhibit A1** - First Office Action, **Exhibit A2** – Final Office Action
2. **Exhibit B** - First Appellant Response
3. **Exhibit C** – Online Article – “LookSmart Lauches Vertical Search Engines Aimed at Targeted Demgraphics,” April 1, 2005,
<http://www.enterprisesearchcenter.com/Articles/ReadArticle.aspx?ArticleID=7798>.
4. **Exhibit D** – Online Article – “What is vertical search?” , Juan Carlos Perez, InfoWorld, January 18, 2006,
http://www.infoworld.com/article/06/01/18/74292_HNverticalsearch_1.html.
5. **Exhibit E** – Online Article – “Vertical Search Creates Buzz In Silicon Valley,” Nick Wilson, March 16, 2005,
<http://www.searchnewz.com/searchnewz-1220050316VerticalSearchCreatesBuzzInSiliconValley.html>.
6. **Exhibit F**— Logika Fusion Bot -- http://www.logika.net/prod_vert.asp.
7. **Exhibit G** – Fusion Bot -- <http://platinum.fusionbot.com>.

RELATED PROCEEDINGS APPENDIX

None.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(LHTLG No. 00,1247-A)

In re Application of: **Matthew A. Fordham**

Serial No. **10/797,857**

Filed: **March 10, 2004**

For: **METHOD AND SYSTEM FOR
CREATING VERTICAL SEARCH
ENGINES**

Examiner: **Paul Kim**

Group Art Unit: **2161**

Conformation No. **3724**

MAIL STOP: Appeal
Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

TRANSMITTAL LETTER

1. We are transmitting herewith the attached papers for the above identified patent application:

- ☒ **PATENT APPEAL BRIEF** under 37 C.F.R. §1.192 (56 pages).
- ☒ **Exhibits A-F for Patent Appeal Brief (Appendix B)** (84 pages).
- ☒ **Return Postcard, Check for \$255.00.**

2. **FEES:** A check is included for requisite **\$255.00** fee set forth in 37 C.F.R. § 41.20(b)(2) for a small entity under 37 C.F.R. § 1.27(a). The Notice of Appeal under 37 C.F.R. § 1.191 was filed on August 28, 2007.

3. **GENERAL AUTHORIZATION TO CHARGE OR CREDIT FEES:** No other fees or extensions of time are required. Should this assumption be incorrect, if an extension of time is required, consider this a petition and request therefor under 37 CFR § 1.136. Please charge any additional fees (or credit overpayment) to Deposit Account No. **50-2281 for Lesavich High-Tech Law Group, PC (32097)**.

4. **CERTIFICATE OF MAILING** under 37 CFR § 1.10, the correspondence identified above was deposited with the United States Postal Service as "Express Mail Post Office to Addressee," addressed to the Mail Stop: Appeal, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 on the **27th Day of October 2007**. Express Mail Number **EV957083863US**.

Respectfully submitted,

EV957083863US

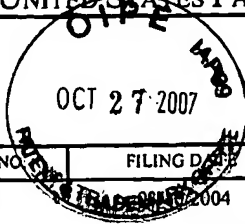
Date: October 27, 2007

Lesavich High-Tech Law Group, P.C. (32097)

Stephen Lesavich, PhD
Registration No. 43,749



UNITED STATES PATENT AND TRADEMARK OFFICE



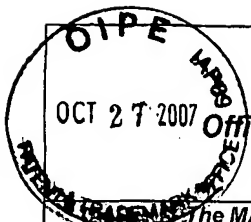
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,857	09/06/2006	Matthew A. Fordham	00,1247-A	3724
32097 7590			EXAMINER	
LESAVICH HIGH-TECH LAW GROUP, P.C.			KIM, PAUL	
SUITE 325			ART UNIT	
39 S. LASALLE STREET			PAPER NUMBER	
CHICAGO, IL 60603			2161	

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.





OCT 27 2007

Office Action Summary

Application No.

10/797,857

Applicant(s)

FORDHAM, MATTHEW A.

Examiner

Paul Kim

Art Unit

2161

The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 14-25 is/are rejected.
- 7) ☒ Claim(s) 6-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/12/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. This Office action is responsive to the following communication: Divisional application filed on 10 March 2004.
2. Claims 1-25 are pending and present for examination. Claims 1, 14, 19 and 23 are independent.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 12 December 2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Priority

4. It is noted that this application appears to claim subject matter disclosed in prior Application No. 09/918,838, filed on 31 July 2001. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of

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the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

This application appears to be a division of Application No. 09/918,838, filed on 31 July 2001. A later application for a distinct or independent invention, carved out of a pending application and disclosing and claiming only subject matter disclosed in an earlier or parent application is known

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as a divisional application or "division." The divisional application should set forth the portion of the earlier disclosure that is germane to the invention as claimed in the divisional application.

Double Patenting

5. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

6. Claims 14-18 and 19-22 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 and 6 respectively of prior U.S. Patent No. 6,714,934. This is a double patenting rejection.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. **Claims 1 and 2-13** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed toward "a method for creating a vertical search engine" and are non-statutory because they do not encompass tangible subject matter and/or embodiments which fall within a statutory category.

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The claims make no mention of a tangible medium wherein existing code may be processed to perform the recited steps in the claims. See State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106. "The claimed invention as a whole must accomplish a practical application. That is, it must produce a 'useful, concrete and tangible result' " (emphasis added).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 1, 2, 4 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis (U.S. Patent No. 6,490,575, hereinafter referred to as BERSTIS), filed on 6 December 1999, and issued on 3 December 2002, in view of Brady et al (U.S. Patent No. 6,463,430, hereinafter referred to as BRADY), filed on 10 July 2000, and issued on 8 October 2002.

11. **As per independent claims 1 and 23**, BERSTIS, in combination with BRADY, discloses:

A method for creating a vertical search engine, comprising:

receiving a list of a plurality of keywords to be used for the vertical search engine on a network device {See BRADY, C2:L17-39, wherein this reads over "Vertical Portals"}, wherein the list of keywords includes general and specific keywords for a selected subject {See BERSTIS, C10:L49-52, wherein this reads over "lists of keywords may be periodically updated automatically"};

processing the list of plurality of keywords to create a refined list of keywords, wherein the processing includes adding, subtracting or modifying automatically the list of plurality of keywords {See BERSTIS, C10:L49-52, wherein this reads over "lists of keywords may be periodically updated automatically"};

creating a plurality of first index files associated with a plurality of first data files by checking a plurality of domain names from a plurality of domain name files associated with a domain name system for a computer network {See BERSTIS, C8:L52-55, wherein this reads over "such resultant data includes the identity and network addresses of network sites containing one or more of the searched keywords"; and C9:L4-7, wherein this reads over "each of local sites have an

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associated local database which maintains a list of keywords compiled from within each site"},

wherein the plurality of first index files include a plurality of pointers to the associated data files {See BERSTIS, C9:L12-16, wherein this reads over "local indices include processing means for indexing the current keyword lists such that each of the keywords is associated with one or more of the multiple Web pages within each respective site; and C10:L43-46, wherein this reads over "such indexing entails associating each keyword with the network address of its local site or server"}, and

wherein the plurality of first data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files {See BERSTIS, C10:L43-46, wherein this reads over "such indexing entails associating each keyword with the network address of its local site or server"};

creating a plurality of second index files with associated plurality of second data files by searching the plurality of first index files for keywords from the refined list of keywords {See BERSTIS, C4:L57-61, wherein this reads over "[a] global, top-level search engine maintains and periodically updates its own master index; and C10:L49-52, wherein this reads over "lists of keywords may be periodically updated automatically"},

wherein the plurality of second index files include a plurality of pointers to the associated plurality of second data files {See BERSTIS, C9:L12-16, wherein this reads over "local indices include processing means for indexing the current keyword lists such that each of the keywords is associated with one or more of the multiple Web pages within each respective site; and C10:L43-46, wherein this reads over "such indexing entails associating each keyword with the network address of its local site or server"}, and

wherein the plurality of second data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with the plurality of active domain names for keywords from the refined list of keywords {See BERSTIS, C10:L43-46, wherein this reads over "such indexing entails associating each keyword with the network address of its local site or server"};

verifying that entries in the plurality of second index files are appropriate for the selected subject;

creating a final index from the plurality of entries first index {See BERSTIS, C4:L57-59, wherein this reads over "[a] global, top-level search engine maintains and periodically updates its own master index"}, and

making a vortal accessible on another network device via the computer network for the selected subject using the final index.

It would have been obvious to one of ordinary skill in the art at the time the invention was created to verify that the entries in the second index files fall within the selected subject for the vortal. Additionally, it would have been obvious to one of ordinary skill in the art at the time

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the invention was created to have the vortal available for access by another network device via a general computer network.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the inventions suggested by BERTIS and BRADY.

One of ordinary skill in the art would have been motivated to do this modification so that in creating a vertical search engine, keywords are processed to be included in a final index such that the final index correlates to a specific subject or topic.

12. **As per dependent claim 2**, BERTIS, in combination with BRADY, discloses:

The method of Claim 1 further comprising a computer readable medium having stored therein instructions for causing a processor to execute the steps of the method {See BERTIS, C11:L23-26, wherein this reads over "implementations as a computer system programmed to execute the method or methods described herein, and as a program product"}.

13. **As per dependent claim 4**, BERTIS, in combination with BRADY, discloses:

The method of Claim 1 wherein the plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files include a title, description, a uniform resource locator, or a pre-determined amount of electronic content associated with a web-site associated with an active domain name {See BERTIS, C4:L62-65, wherein this reads over "the global search engine would retrieve only the Internet Protocol (IP) address of the local sites associated with word-to-page links relating to the searched words"}.

14. **Claims 3, 24 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over BERTIS, in view of BRADY, and in further view of Official Notice.

BERTIS and BRADY teach the limitations of claims 1, 2, 4 and 23 for the reasons stated above.

BERTIS and BRADY differ from the claimed invention in that they fail to specifically disclose that the DNS for the Internet is included in the DNS for the network (claims 3 and 25).

BERTIS and BRADY differ from the claimed invention in that they fail to specifically disclose that the opening of a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file (claim 24).

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15. **As per dependent claims 3 and 25**, it would have been obvious to one of ordinary skill in the art at the time the invention was claimed to include the Domain Names System (or "DNS") for the Internet in the DNS for the network.

16. **As per dependent claim 24**, it would have been obvious to one of ordinary skill in the art at the time the invention was claimed to have the name files associated with a DNS would include opening a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file associated with the DNS of the Internet.

17. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over *BERSTIS*, in view of *BRADY*, and in further view *Sullivan et al* (U.S. Patent No. 5,956,711, hereinafter referred to as *SULLIVAN*), filed on 16 January 1997, and issued on 21 September 1999.

BERTIS and *BRADY* teach the limitations of claims 1, 2, 4 and 23 for the reasons stated above.

BER TIS and *BRADY* differ from the claimed invention in that they fail to specifically disclose the method of eliminating generic keywords and adding synonyms and modified spellings of keywords to the list (claim 5).

18. **As per dependent claim 5**, *BRADY*, in combination with *BERSTIS* and *SULLIVAN*, discloses:

The method of Claim 1 wherein the processing step includes:

eliminating keywords that are too generic or have multiple meanings {See *SULLIVAN*, C4:L4-7, wherein this reads over "[a] restricted keyword list is accessed by the keyword translator which compares the user-entered input with a restricted list of acceptable keywords and acceptable synonyms"};

modifying keywords by adding alternative spellings or additional words {See *SULLIVAN*, C6:L1-5, wherein this reads over "even one spelling of the same word (e.g., "color" in the United States, v. "colour" in the United Kingdom)"}; and

adding automatically synonyms for keywords to the list of plurality of keywords to create the refined list of keywords {See *SULLIVAN*, C4:L7-10, wherein this reads over "[i]f the input is not on the list, but it is a synonym for a keyword on the list, then the keyword is substituted before storing the information"}.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the inventions suggested by *BERSTIS*, *BRADY* and *SULLIVAN*.

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One of ordinary skill in the art would have been motivated to do this modification so that certain keywords are added or deleted according to their generic nature or similarity.

Allowable Subject Matter

19. **Claims 6-13** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is (571) 272-2737. The examiner can normally be reached on M-F, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chase can be reached on (571) 272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

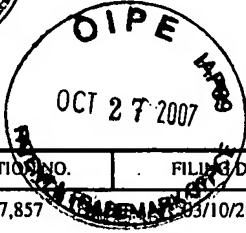
Paul Kim
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SAM RIMELL
PRIMARY EXAMINER



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,857	05/10/2004	Matthew A. Fordham	00,1247-A	3724

32097 7590 05/16/2007
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EXAMINER

KIM, PAUL

ART UNIT	PAPER NUMBER
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2161

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05/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. **Claims 1, 2, 4 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis (U.S. Patent No. 6,490,575, hereinafter referred to as BERSTIS), filed on 6 December 1999, and issued on 3 December 2002, in view of Brady et al (U.S. Patent No. 6,463,430, hereinafter referred to as BRADY), filed on 10 July 2000, and issued on 8 October 2002.

13. **As per independent claims 1 and 23**, BERSTIS, in combination with BRADY, discloses:

A method for creating a vertical search engine, comprising:

receiving a list of a plurality of keywords to be used for the vertical search engine on a network device {See BRADY, C2:L17-39, wherein this reads over "Vertical Portals", wherein the list of keywords includes general and specific keywords for a selected subject {See BERSTIS, C10:L49-52, wherein this reads over "lists of keywords may be periodically updated automatically"};

processing the list of plurality of keywords to create a refined list of keywords, wherein the processing includes adding, subtracting or modifying automatically the list of plurality of keywords {See BERSTIS, C10:L49-52, wherein this reads over "lists of keywords may be periodically updated automatically"};

creating a plurality of first index files associated with a plurality of first data files by checking a plurality of domain names from a plurality of domain name files associated with a domain name system for a computer network {See BERSTIS, C8:L52-55, wherein this reads over "such resultant data includes the identity and network addresses of network sites containing one or more of the searched keywords"; and C9:L4-7, wherein this reads over "each of local sites have an associated local database which maintains a list of keywords compiled from within each site"},

wherein the plurality of first index files include a plurality of pointers to the associated data files {See BERSTIS, C9:L12-16, wherein this reads over "local indices include processing means for indexing the current keyword lists such that each of the keywords is associated with one or more of the multiple Web pages within each respective site; and C10:L43-46, wherein this reads over "such indexing entails associating each keyword with the network address of its local site or server"}, and

wherein the plurality of first data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files

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{See BERSTIS, C10:L43-46, wherein this reads over "such indexing entails associating each keyword with the network address of its local site or server"};

creating a plurality of second index files with associated plurality of second data files by searching the plurality of first index files for keywords from the refined list of keywords {See BERSTIS, C4:L57-61, wherein this reads over "[a] global, top-level search engine maintains and periodically updates its own master index; and C10:L49-52, wherein this reads over "lists of keywords may be periodically updated automatically"},

wherein the plurality of second index files include a plurality of pointers to the associated plurality of second data files {See BERSTIS, C9:L12-16, wherein this reads over "local indices include processing means for indexing the current keyword lists such that each of the keywords is associated with one or more of the multiple Web pages within each respective site; and C10:L43-46, wherein this reads over "such indexing entails associating each keyword with the network address of its local site or server"}, and

wherein the plurality of second data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with the plurality of active domain names for keywords from the refined list of keywords {See BERSTIS, C10:L43-46, wherein this reads over "such indexing entails associating each keyword with the network address of its local site or server"};

verifying that entries in the plurality of second index files are appropriate for the selected subject;

creating a final index from the plurality of entries first index {See BERSTIS, C4:L57-59, wherein this reads over "[a] global, top-level search engine maintains and periodically updates its own master index"}, and

making a vortal accessible on another network device via the computer network for the selected subject using the final index.

It would have been obvious to one of ordinary skill in the art at the time the invention was created to verify that the entries in the second index files fall within the selected subject for the vortal. Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was created to have the vortal available for access by another network device via a general computer network.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the inventions suggested by BERSTIS and BRADY.

One of ordinary skill in the art would have been motivated to do this modification so that in creating a vertical search engine, keywords are processed to be included in a final index such that the final index correlates to a specific subject or topic.

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14. **As per dependent claim 2**, BERTIS, in combination with BRADY, discloses:

The method of Claim 1 further comprising a computer readable medium having stored therein instructions for causing a processor to execute the steps of the method (See BERTIS, C11:L23-26, wherein this reads over "implementations as a computer system programmed to execute the method or methods described herein, and as a program product").

15. **As per dependent claim 4**, BERTIS, in combination with BRADY, discloses:

The method of Claim 1 wherein the plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files include a title, description, a uniform resource locator, or a pre-determined amount of electronic content associated with a web-site associated with an active domain name (See BERTIS, C4:L62-65, wherein this reads over "the global search engine would retrieve only the Internet Protocol (IP) address of the local sites associated with word-to-page links relating to the searched words").

16. **Claims 3, 24 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over BERTIS, in view of BRADY, and in further view of Admitted prior art.

BERTIS and BRADY teach the limitations of claims 1, 2, 4 and 23 for the reasons stated above.

BERTIS and BRADY differ from the claimed invention in that they fail to specifically disclose that the DNS for the Internet is included in the DNS for the network (claims 3 and 25).

BERTIS and BRADY differ from the claimed invention in that they fail to specifically disclose that the opening of a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file (claim 24).

17. **As per dependent claims 3 and 25**, it would have been obvious to one of ordinary skill in the art at the time the invention was claimed to include the Domain Names System (or "DNS") for the Internet in the DNS for the network. Because Applicant failed to provide an adequate response to Examiner's Official Notice in the prior Office action, said failure deems the aforementioned obviousness statement to be taken as admitted prior art.

18. **As per dependent claim 24**, it would have been obvious to one of ordinary skill in the art at the time the invention was claimed to hat the name files associated with a DNS would include opening a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file associated with the DNS of the Internet. Because Applicant failed to provide an adequate response to Examiner's Official Notice in the

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prior Office action, said failure deems the aforementioned obviousness statement to be taken as admitted prior art.

19. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over BERTIS, in view of BRADY, and in further view Sullivan et al (U.S. Patent No. 5,956,711, hereinafter referred to as SULLIVAN), filed on 16 January 1997, and issued on 21 September 1999.

BERTIS and BRADY teach the limitations of claims 1, 2, 4 and 23 for the reasons stated above.

BERTIS and BRADY differ from the claimed invention in that they fail to specifically disclose the method of eliminating generic keywords and adding synonyms and modified spellings of keywords to the list (claim 5).

20. **As per dependent claim 5**, BRADY, in combination with BERTIS and SULLIVAN, discloses:

The method of Claim 1 wherein the processing step includes:

eliminating keywords that are too generic or have multiple meanings (See SULLIVAN, C4:L4-7, wherein this reads over "[a] restricted keyword list is accessed by the keyword translator which compares the user-entered input with a restricted list of acceptable keywords and acceptable synonyms");

modifying keywords by adding alternative spellings or additional words (See SULLIVAN, C6:L1-5, wherein this reads over "even one spelling of the same word (e.g., "color" in the United States, v. "colour" in the United Kingdom)"); and

adding automatically synonyms for keywords to the list of plurality of keywords to create the refined list of keywords (See SULLIVAN, C4:L7-10, wherein this reads over "[i]f the input is not on the list, but it is a synonym for a keyword on the list, then the keyword is substituted before storing the information").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the inventions suggested by BERTIS, BRADY and SULLIVAN.

One of ordinary skill in the art would have been motivated to do this modification so that certain keywords are added or deleted according to their generic nature or similarity.

Response to Arguments

21. Applicant's arguments filed 28 February 2007 have been fully considered but they are not persuasive.

a. Rejections under 35 U.S.C. 101

Applicant asserts the argument that because "the parent application of the pending application was granted a patent for a vertical search engine by the U.S. Patent Office, as U.S. Patent No. 6,714,934," the pending application contains a method and a system that is "obviously statutory subject matter." Very respectfully, the Examiner will not express any opinion nor comment on the validity and patentability of an issued Patent. Instead, the Applicant should review MPEP 1701 which state the following in part:

Likewise, employees are cautioned against answering any inquiry concerning any entry in the patent or reexamination file, including the extent of the field of search and any entry relating thereto.

Practitioners shall not make improper inquiries of members of the patent examining corps. Inquiries from members of the public relating to the matters discussed above must of necessity be refused and such refusal should not be considered discourteous or an expression of opinion as to validity, patentability or enforceability. (emphasis added).

Secondly, Applicant asserts the argument that the State Street Bank case and the AT&T case no longer require a tangible medium for a software invention. The Examiner respectfully disagrees in that State Street specifically states that "the claimed invention as a whole must accomplish a practical application. That is, it must produce a 'useful, concrete and tangible result' " See State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106. In this present application, claims 1 and 3-13 fail to recite any tangible computer readable medium upon which the instructions for execution the method steps may exist, and more importantly fail to recite a "useful, concrete and tangible result". Additionally, per Applicant's admission that the present application is for a software invention, the Examiner notes that the method claims may be considered to be software, per se, since the claims fail to be integrated into a computer hardware system for execution. Therefore, since the claims simply recite steps of implementation, said claims constitute non-statutory subject matter by failing to fall within a statutory category. That

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Additionally, Applicant asserts the argument that the Examiner has asserted "an erroneous statement" and has "a misunderstanding of the holding of the State Street Bank and AT&T cases" (See Amendment, page 17). Once again, Examiner directs Applicant to the Interim Guidelines and to further review the holdings of State Street Bank and AT&T and other relevant patent rules. While Applicant asserts that the vertical search engine claimed by the Applicant "are some of the most innovative and important tools created for the Internet," the Examiner notes that the level of innovation and importance are not provided weight in the examination and review of patent applications (See Amendment page 17). Furthermore, Examiner, very respectfully, disagrees with Applicant's assertion that "[t]he Internet would not be useable without search engines" in that search engines are not necessary to the operability of the Internet (See Amendment, page 17). While the Examiner agrees with Applicant's assertion that search results may constituted "useful, concrete and tangible result," it is noted that the features upon which applicant relies (i.e., search results) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Additionally, Applicant asserts the argument that if claims 6 and 13 are allowable, that said claims "must also be statutory" (See Amendment, page 17). While claims 6-13 have been indicated as being allowable but objected to as being dependent upon a rejected base claim, the Examiner notes that in order for said claims to be allowable, the rejections under 35 U.S.C. 101 must also be overcome. Where the 35 U.S.C. 101 rejections have presently not been overcome, the Examiner maintains the objections to claims 6-13.

Lastly, Applicant asserts that "[t]he Section 101 rejection is clearly a mis-application of U.S. Patent Law and Rules and must be immediately withdrawn." The Examiner, very respectfully, disagrees and the rejections of the claims will not be immediately withdrawn as the Examiner has clearly and properly applied U.S. Patent Law and Rules. Furthermore, the

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is, while claim 1 may recite method steps such as "receiving a list of a plurality of keywords to be used for the vertical search engine on a network device" and "making a vortal accessible on another network device via the computer network for the selected subject using the final index," said method steps only present an intended use and no integration of a computer hardware system for execution is presented. Since a computer program is merely a set of instructions capable of being executed by a program, the computer program itself is not a process and is nonstatutory functional descriptive material.

As to the assertion that "the Examiner should review the holding of these cases and the corresponding MPEP sections 2106-2108," the Examiner very respectfully directs the Applicant to review the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (hereinafter referred to as "Interim Guidelines") published by the USPTO. The Applicant has clearly misapplied both case law and patent rules which are clearly stated for software inventions as clarified by the Interim Guidelines.

Thirdly, Applicant asserts the argument that claim 2 "does include a computer readable medium" (See Amendment, page 17). The Examiner agrees. However, for purposes of clarification, it is noted that the rejection of claim 2 under 35 U.S.C. 101 is sustained in that claim 2 fails to remedy the non-statutory subject matter deficiencies of claim 1. That is, while claim 2 recites "[t]he method of Claim 1 further comprising a computer readable medium having stored therein Instructions for causing a processor to execute the steps of the method," it is noted that the limitations of said claim fail to recite a "useful, concrete and tangible result." That is, the limitations of claim 2 may be considered to be software, per se, since the claims fail to be integrated into a computer hardware system for execution. Since claim simply recites that the instructions are "for causing a process to execute the steps of the method" and fails to claim a process where an integrated computer hardware system is executing the computer program's instructions, the claim fails to qualify as a process claim and is considered nonstatutory functional descriptive material.

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and are non-statutory because they do not encompass tangible subject matter and/or embodiments which fall within a statutory category.

The claims make no mention of a tangible medium wherein existing code may be processed to perform the recited steps in the claims. See *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106. "The claimed invention as a whole must accomplish a practical application. That is, it must produce a 'useful, concrete and tangible result' " (emphasis added).

Additionally, it is noted that the limitations of the claims may be considered to be software, per se, since the claims fail to be integrated into a computer hardware system for execution. Since claim simply recites that the instructions are "for causing a process to execute the steps of the method" and fails to claim a process where an integrated computer hardware system is executing the computer program's instructions, the claim fails to qualify as a process claim and is considered nonstatutory functional descriptive material.

10. **Claims 26-27** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed toward "a method for creating a vertical search engine" and are non-statutory because they do not encompass tangible subject matter and/or embodiments which fall within a statutory category.

The claims make no mention of a tangible medium wherein existing code may be processed to perform the recited steps in the claims. See *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106. "The claimed invention as a whole must accomplish a practical application. That is, it must produce a 'useful, concrete and tangible result' " (emphasis added).

Additionally, it is noted that the limitations of the claims may be considered to be software, per se, since the claims fail to be integrated into a computer hardware system for execution. Since claim simply recites that the instructions are "for causing a process to execute the steps of the method" and fails to claim a process where an integrated computer hardware system is executing the computer program's instructions, the claim fails to qualify as a process claim and is considered nonstatutory functional descriptive material.

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Examiner once again directs Applicant to review the Interim Guidelines, and the case law and relevant Patent Rules contained therein so that Applicant may be able to ascertain a better understanding of the legal requirements for statutory subject matter with regard to computer-related inventions.

Therefore, for all the reasons stated above, the rejections of claims 1-13 are sustained under 35 U.S.C. 101.

b. Rejections under 35 U.S.C. 103 – First Section

Applicant asserts the argument that "the Examiner has not established a prima facie case of obviousness in violation of the holding of *In re Vaeck* and *In re Royka*" (See Amendment, page 19). The Examiner respectfully disagrees in that the Examiner has established a prima facie case of obviousness.

It is asserted by Applicant that the Examiner "trie[d] to overcome his failings by (sic) stating the missing claim elements are obvious" (See Amendment, page 19). Applicant is directed to column 22, lines 17-37 of Brady et al which discloses that "[s]uch assignments can then be reviewed by a human operator for reclassification." That is, wherein the assignment is of a web page to a certain taxonomy category. Accordingly, the Examiner reasserts the statement that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was created to verify that the entries in the second index files are appropriate for the selected subject" (See Amendment, page 19).

Additionally, Applicant asserts the argument that the Examiner has failed in establishing a prima facie case of obviousness in that the Examiner has failed in finding prior art that satisfies the method step of "making a vortal accessible on another network device via a general computer network" (See Amendment, page 20). Applicant is directed to the "Background of Invention," specifically column 2, lines 17-47, of Brady et al which discloses "[t]he commercial success of vortals, such as ZDNET and eTrade." Additionally, the cited prior art further discloses the use of vortals in the Internet environment, and the World Wide Web, as well as "the

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DETAILED ACTION

1. This Office action is responsive to the following communication: Amendment filed on 28 February 2007.
2. Claims 1-13 and 23-25 are pending and present for examination. Claims 1 and 23 are independent.

Response to Amendment

3. Claims 14-22 have been cancelled.
4. Claims 26 and 27 have been added.
5. No claims have been amended.

Priority

6. As per the objection to the Specification, Applicant's amendment is acknowledged. Accordingly, the objection has been withdrawn.

Double Patenting

7. As per the Double Patent rejection, Applicant's Preliminary Amendment filed on 10 March 2004 is acknowledged. Accordingly, the rejection has been withdrawn.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
9. **Claims 1-13** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed toward "a method for creating a vertical search engine"

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increasing number of vortals and commercial enterprises on the web" (See Brady et al, C2:L43-47). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made, for said reasons above, to make a vortal accessible on another network device (i.e. another computer on the Internet or Intranet) via the computer network (i.e. the Internet). One of ordinary skill in the art would be able to clearly appreciate the prior art disclosure by Brady et al and Berstis and apply said prior art in such a manner that the method steps of the present invention are fully and completely read upon.

For purposes of clarification, the Examiner expressly disagrees with Applicant's assertion that the Examiner has simply claimed elements that were not found in the combination of references as obvious to one of ordinary skill in the art. As cited above, the contested method steps have been fully disclosed by the prior art, and the Examiner remarks that it is the responsibility of the Applicant to review any and all cited prior art before pointing out deficiencies in a rejection and before making assertions that the Examiner has violated case law. For the reasons stated above, the rejections under 35 U.S.C. are deemed clearly proper and will not be withdrawn but instead sustained as a prima facie case of obviousness has been established.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both of the inventions in the cited prior art of Brady et al and Berstis are applicable to communication networks such as the Internet and Intranet. While Applicant asserts that "[s]ince Brady requires use of a spider or crawler and Bertsis in part was created to eliminate the use of a spider or crawler by requiring use of local search engines, combining Brady and Berstis makes Bertsis unsatisfactory for one of its intended purposes of eliminating use of spiders and

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crawlers," the Examiner disagrees (See Amendment, page 23). It is noted that Brady discloses a system wherein documents are process to create a database that can be search to identify relevant documents. Furthermore, while Brady discloses that "the term, 'network of documents,' refers to a body or collection of documents, such as the Internet, the World Wide Web, local area networks (LANs), intranets and the like" (See Brady, C3:L56-59), Berstis discloses that "another object of the invention [is] to provide an improved method and system for efficiently searching a distributed, hierarchical network database, such as the World Wide Web (WWW)" (See Bertsis, C3:L45-48). Accordingly, it would have been obvious to one ordinary skill in the art to comprehend and recognize that the disclosed inventions do not teach away from each other but are complementary in nature by improving on search efficiency. Applicant is further advised that one of ordinary skill in the art would readily acknowledge that the terms "spider" and "crawler" are directed to automated processes which index data from a Web site or other data on a network. In fact, one of ordinary skill in the art could comprehend that search engines widely use "spidering" as a means of providing up-to-date data from the network, be it a local network or the Internet. Therefore, the Examiner notes that the cited prior art, in combination, teach and disclose the limitations of the present invention, properly rendering the claims as prima facie obvious.

Therefore, for the reasons stated above, the rejections of claims 1 and 23 are sustained under 35 U.S.C. 103(a).

As per the rejections of claims 2 and 4, the aforementioned reasons for the rejections of claims 1 and 23 under 35 U.S.C. 103(a) are incorporated herein by reference.

c. Rejections under 35 U.S.C. 103 – Second Section

Applicant asserts the argument that the Examiner's Official Notice is deficient in that the Examiner has not provided documentary evidence of proof for the Official Notice. Because Applicant has inadequately traversed the Official Notice and is therefore deficient, no document evidence shall be provided by the Examiner. Very respectfully, the Applicant should review MPEP

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2144.03, which address the topic of Official Notice and clearly state the criteria for traversing an Official Notice. MPEP 2144.03, Part C states the following in part:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also Chevenard, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. (emphasis added)

If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. (emphasis added).

Accordingly, because of Applicant's inadequate traversal, it is noted that the rejections of claims 3 and 24-25 have been modified to indicate that the limitations of the claim, which are well-known in the art, are to be taken as admitted prior art.

d. Rejections under 35 U.S.C. 103 – Second Section

As per the rejection of claim 5, Applicant's arguments for said claim are incorporated by reference. Accordingly, the aforementioned reasons for the rejections of claims 1 and 23 under 35 U.S.C. 103(a) are incorporated herein by reference.

Conclusion

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing

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date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is (571) 272-2737. The examiner can normally be reached on M-F, 9am - 5pm.

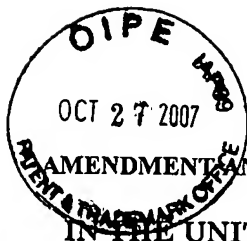
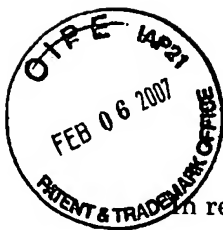
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul Kim
Patent Examiner, Art Unit 2161
TECH Center 2100



SAM RIMELL
PRIMARY EXAMINER



PATENT 10/797,857

AMENDMENT AND RESPONSE TO OFFICE ACTION MAILED SEPTEMBER 6, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(LHTG No. 00,1247-A)

In re Application of: Matthew A. Fordham)

Serial No. 10/797,857)

Examiner: Paul Kim)

Filed: March 10, 2004)

Group Art Unit: 2161)

For: METHOD AND SYSTEM FOR
CREATING VERTICAL SEARCH
ENGINES)

Conformation No. 3724)

Mail Stop: Responses
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



AMENDMENT AND RESPONSE

FOR OFFICE ACTION MAILED September 9, 2006

Responsive to the First Office Action mailed September 9, 2006, Applicant
submits the following Amendment and Response.

AMENDMENT

In the CLAIMS:

Please add new claims 26 and 27.

1. **(Original)** A method for creating a vertical search engine, comprising:
receiving a list of a plurality of keywords to be used for the vertical search engine on a network device, wherein the list of keywords includes general and specific keywords for a selected subject;
processing the list of plurality of keywords to create a refined list of keywords, wherein the processing includes adding, subtracting or modifying automatically the list of plurality of keywords;
creating a plurality of first index files associated with a plurality of first data files by checking a plurality of domain names from a plurality of domain name files associated with a domain name system for a computer network, wherein the plurality of first index files include a plurality of pointers to the associated data files, and wherein the plurality of first data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files;
creating a plurality of second index files with associated plurality of second data files by searching the plurality of first index files for keywords from the refined list of keywords, wherein the plurality of second index files include a plurality of pointers to the associated plurality of second data files, and wherein the plurality of second data files include a plurality of entries including electronic information

extracted from a plurality of web-sites associated with the plurality of active domain names for keywords from the refined list of keywords;

verifying that entries in the plurality of second index files are appropriate for the selected subject;

creating a final index from the plurality of entries first index; and

making a vortal accessible on another network device via the computer network for the selected subject using the final index.

2. **(Original)** The method of Claim 1 further comprising a computer readable medium having stored therein instructions for causing a processor to execute the steps of the method.

3. **(Original)** The method of Claim 1 wherein the domain name system for the computer network includes the Domain Name System for the Internet.

4. **(Original)** The method of Claim 1 wherein the plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files include a title, description, a uniform resource locator, or a pre-determined amount of electronic content associated with a web-site associated with an active domain name.

5. **(Original)** The method of Claim 1 wherein the processing step includes:
eliminating keywords that are too generic or have multiple meanings;
modifying keywords by adding alternative spellings or additional words; and
adding automatically synonyms for keywords to the list of plurality of
keywords to create the refined list of keywords.

6. **(Original)** The method of Claim 1 wherein the step of creating a plurality
of first index files includes:

opening a plurality of top-level domain name files associated with the domain
name system for the computer network;

checking a plurality of domain names from the plurality of open top-level
domain name files to determine whether any of the plurality of domain names are
associated with an active web-site on the computer network;

extracting domain names in the plurality of open top-level domain name files
associated with active web-sites on the computer network;

storing the extracted domains names in a plurality of entries in a plurality of
separate files, thereby creating a plurality of separate files including the plurality of
entries; and

sorting each of the plurality of separate files based on a pre-determined
sorting scheme to create a plurality of sorted separate files.

7. **(Original)** The method of Claim 6 wherein the step of opening a plurality
of top-level domain name files associated with a domain name system including

opening a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file associated with the Internet domain name system.

8. **(Original)** The method of Claim 6 wherein the checking step includes attempting to visit a web-site on the computer network with a software spider to determine whether the web-site is active.

9. **(Original)** The method of Claim 6 wherein the checking step includes extracting electronic content from an active web-site on the computer network.

10. **(Original)** The method of Claim 6 wherein the extracting step includes:

(a) adding a first individual character component to a first file based on the first character of an entry, when the first individual character component was derived from an entry in one of the plurality of open top-level domain name files;

(b) moving the first character of the first individual character component to an end of the first individual character component, thereby exposing a next character and creating a next individual character component;

(c) adding the next individual character component to a next file based on the next character of the first individual character component;

(d) moving the next character of the next individual character component to an end of the next individual character component, thereby exposing a (next character+1) and creating a (next character+1) individual character component;

(e) adding the (next character+1) individual character component to a (next

character+1) file based on the (next character+1) of the (next character+1) individual character component;

(f) repeating steps (d) and (e) until first character of the first individual character component is reached.

11. **(Original)** The method of Claim 6 wherein the storing step includes storing the plurality of individual character components in a plurality of separate files including one file for each letter of the English alphabet (A-Z), and the numbers zero through nine.

12. **(Original)** The method of Claim 6 wherein the sorting step includes sorting each of the plurality of separate files based on an ASCII value of characters stored in the plurality of separate files.

13. **(Original)** The method of Claim 1 wherein the step of creating a plurality of first index files includes:

- (a) selecting a keyword from the refined list of keywords;
- (b) determining whether the selected keyword comprises multiple words, and if so,
 - (c) selecting a word with the greatest number of individual characters from the multiple words comprising the selected keyword,
 - (d) opening a one of a plurality of sorted separate files based on a first character of the selected word from the selected keyword, wherein the plurality of

sorted separate file were created by indexing a plurality of domain name files associated with a domain name system for the refined list of keywords, and

(e) searching the open sorted separate file for the selected word from the selected keyword,

(f) repeating steps (c) through (e) for remaining words in the selected keyword;

and if not,

(g) opening a one of a plurality of sorted separate files based on a first character of the selected keyword, wherein the plurality of sorted separate file were created by indexing a plurality of domain name files associated with a domain name system for the refined list of keywords, and

(h) searching the open sorted separate file for the selected keyword;

(i) determining whether the selected keyword has been found in the open separate sorted, file, and if so,

(j) adding an entry to a first index file for the selected keyword;

(k) repeating steps (a), (b) and (i) for remaining keywords from the refined list of keywords.

14.-22 (Canceled).

23. (Original) A vertical search engine system, comprising in combination:

a vertical search engine server with associated database for indexing and searching a plurality of top-level domain name files associated with a domain name system for a computer network for a selected list of keywords for a selected topic, for indexing and searching electronic content from a plurality of web-sites identified by a plurality of domain names from the plurality of top-level domain name files and for creating a vortal index from the indexed plurality of top-level domain name files and the electronic content from the plurality of web-sites; and

a protocol stack on the vertical search engine server for communicating with other network devices on the computer network; and

a server network device for making a vortal accessible on a network device via the computer network for a selected subject using the vertical index created by the vertical search engine server.

24. (Original) The vertical search engine system of Claim 23 top-level domain name files associated with a domain name system including opening a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file associated with the Internet Domain Name system.

25. (Original) The vertical search engine system of Claim 23 wherein the domain name system for the computer network includes the Domain Name System for the Internet.

26. (New) A method for creating a vertical search engine, comprising:

receiving a list of a plurality of keywords to be used for the vertical search engine on a network device, wherein the list of keywords includes general and specific keywords for a selected subject;

processing the list of plurality of keywords to create a refined list of keywords, wherein the processing includes adding, subtracting or modifying automatically the list of plurality of keywords;

creating a plurality of first index files associated with a plurality of first data files by checking a plurality of domain names from a plurality of domain name files associated with a domain name system for a computer network, wherein the plurality of first index files include a plurality of pointers to the associated data files, and wherein the plurality of first data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files, wherein the step of creating the plurality of first index files includes:

opening a plurality of top-level domain name files associated with the domain name system for the computer network;

checking a plurality of domain names from the plurality of open top-level domain name files to determine whether any of the plurality of domain names are

associated with an active web-site on the computer network;

extracting domain names in the plurality of open top-level domain name files
associated with active web-sites on the computer network;

storing the extracted domains names in a plurality of entries in a plurality of
separate files, thereby creating a plurality of separate files including the plurality of
entries; and

sorting each of the plurality of separate files based on a pre-determined
sorting scheme to create a plurality of sorted separate files;

creating a plurality of second index files with associated plurality of second
data files by searching the plurality of first index files for keywords from the refined
list of keywords, wherein the plurality of second index files include a plurality of
pointers to the associated plurality of second data files, and wherein the plurality of
second data files include a plurality of entries including electronic information
extracted from a plurality of web-sites associated with the plurality of active domain
names for keywords from the refined list of keywords;

verifying that entries in the plurality of second index files are appropriate for
the selected subject;

creating a final index from the plurality of entries first index; and

making a vortal accessible on another network device via the computer
network for the selected subject using the final index.

27. (New) A method for creating a vertical search engine, comprising:

receiving a list of a plurality of keywords to be used for the vertical search engine on a network device, wherein the list of keywords includes general and specific keywords for a selected subject;

processing the list of plurality of keywords to create a refined list of keywords, wherein the processing includes adding, subtracting or modifying automatically the list of plurality of keywords;

creating a plurality of first index files associated with a plurality of first data files by checking a plurality of domain names from a plurality of domain name files associated with a domain name system for a computer network, wherein the plurality of first index files include a plurality of pointers to the associated data files, and wherein the plurality of first data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files, wherein the step of creating a plurality of first index files includes:

(a) selecting a keyword from the refined list of keywords;

(b) determining whether the selected keyword comprises multiple words, and if so,

(c) selecting a word with the greatest number of individual characters from the multiple words comprising the selected keyword,

(d) opening a one of a plurality of sorted separate files based on a first character of the selected word from the selected keyword, wherein the plurality of sorted separate file were created by indexing a plurality of domain name files

AMENDMENT AND RESPONSE TO OFFICE ACTION MAILED SEPTEMBER 6, 2006

associated with a domain name system for the refined list of keywords, and

(e) searching the open sorted separate file for the selected word from the selected keyword,

(f) repeating steps (c) through (e) for remaining words in the selected keyword;

and if not,

(g) opening a one of a plurality of sorted separate files based on a first character of the selected keyword, wherein the plurality of sorted separate file were created by indexing a plurality of domain name files associated with a domain name system for the refined list of keywords, and

(h) searching the open sorted separate file for the selected keyword;

(i) determining whether the selected keyword has been found in the open separate sorted, file, and if so,

(j) adding an entry to a first index file for the selected keyword;

(k) repeating steps (a), (b) and (i) for remaining keywords from the refined list of keywords;

creating a plurality of second index files with associated plurality of second data files by searching the plurality of first index files for keywords from the refined list of keywords, wherein the plurality of second index files include a plurality of pointers to the associated plurality of second data files, and wherein the plurality of second data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with the plurality of active domain names for keywords from the refined list of keywords;

verifying that entries in the plurality of second index files are appropriate for the selected subject;

creating a final index from the plurality of entries first index; and

making a vortal accessible on another network device via the computer network for the selected subject using the final index.

SPECIFICATION

The Specification was previously amended on Page 2, Line 1 in the Preliminary amendment filed March 10, 2004.

Please currently amend the Specification on page 2, Line 1, as follows:

This U.S. Application is a Divisional of U.S. Application No. 09/918,838 filed on July 31, 2001, that issued as U.S. Patent No. 6,714,934 B1 on March 30, 2004, the contents of which are incorporated by reference. ~~6,xxx,xxx, xx on yyyy, 2004.~~

RESPONSE

Remarks

Claims 1-13 and 23-25 are pending in this Divisional Application. Claims 1 and 23 are in independent format.

The Applicant submitted a Preliminary Amendment with the filing of the Divisional Application on March 10, 2004. Many of the issues raised by the Examiner in the Office Action were handled in that paper. The Applicant includes a copy of the Preliminary Amendment as filed on March 10, 2004.

Allowable Subject Matter

The Applicant thanks the Examiner for the Allowable subject matter of Claims 6 and 13. New Claims 26 and 27 have been added including the limitations of Independent Claim 1 and Dependent Claims 6 and 13. Claims 26 and 27 are immediately allowable claims.

Information Disclosure Statement

The Applicant acknowledges and thanks the Examiner for considering all 40 items listed on the IDS filed December 12, 2004.

Priority

The Applicant included an amendment for a priority claim in the Preliminary Amendment. The Specification has been further amended above to include the patent number and issue date of the patent application.

Double Patenting - 35 U.S.C. §101

The Applicant canceled claims 14-22 in this Divisional Application with the Preliminary Amendment filed March 10, 2004, the day this Divisional Application was filed. Since the Examiner cited the claims canceled in the Preliminary Amendment, the double patenting rejecting is improper and must be withdrawn.

Claim Rejection – 35 U.S.C. §101

The Examiner asserts that Claims 1 and 2 and 13 are rejected under 35 U.S.C. 101 because the claimed invention is directed towards non-statutory subject matter. The claims are directed toward 'a method for creating a vertical search engine' and are non-statutory because they do not encompass tangible subject matter and/or embodiments which fall within a statutory category. The claims make no mention of a tangible medium wherein existing code may be processed to perform the recited claims." The Applicant traverses this assertion.

Section 35 U.S.C. §101 Response

With all due respect to the Examiner, there are several errors with his application of patent law.

First, this very Applicant and the parent application of this divisional application was granted a patent for a vertical search engine by the U.S. Patent Office, as U.S. Patent No. 6,714,934, without mention in the method claims of a tangible medium. Thus, the method and system described in this issued patent was obviously statutory subject matter otherwise the U.S. Patent Office would not have issued a patent.

Second, based on the State Street Bank case cited by the Examiner and the AT&T case, a tangible medium is no longer required for a software invention. Very respectfully, the Examiner should review the holdings of these cases and the corresponding MPEP sections 2106-2108 which clearly state the criteria for a software invention. The Examiner has mis-applied case law and patent rules which are clearly stated for software inventions.

Third, Claim 2, a dependent claim does include a computer readable medium. The Examiner asserts that this claim does not encompass a tangible medium. This simply an incorrect statement by the Examiner.

Fourth, the Examiner asserts that the claimed invention related to methods and systems for a vertical search engine do not produce a useful, concrete and tangible result. This is clearly an erroneous statement and a misunderstanding of the holding of the State Street Bank and AT&T cases. Search engines, including vertical search engines claimed by the Applicant, are some of the most innovative and important tools created for the Internet. The Internet would not be useable without search engines. Search results for any search engines, including vertical search engines, are certainly useful, concrete and tangible results.

Fifth, the Examiner indicated that Independent Claim 1 with the additional limitations of Claims 6 and 13 are allowable. If these claims are allowable, they must also be statutory.

The Section 101 rejection is clearly a mis-application of U.S. Patent Law and Rules and must be immediately withdrawn.

First Section 35 U.S.C. §103

Claims 1, 2, 4 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis (U.S. Patent No. 6,490,575, hereinafter referred to as BERSTIS), filed on 6 December 1999, and issued on 3 December 2002, in view of Brady et al (U.S. Patent No. 6,463,430, hereinafter referred to as BRADY), filed on 10 July 2000, and issued on 8 October 2002. The Applicant traverses this assertion. The Applicant may respond only to specific statements in the assertion. However, the Applicant intends to traverse all the Examiner's assertions.

First Section 35 U.S.C. §103 Response

Independent Claims 1 and 23

The Examiner is reminded that to establish a prima facie case of obviousness in the first place, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all of the claim limitations. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

The Examiner is reminded that to establish a case of prima facie obviousness of a claimed invention, all of the claim limitations must be taught or suggested. *In re Royka* 400 F.2d 981 (CCPA 1974).

The Examiner asserts that BERSTIS, in combination with BRADY, discloses all of the elements in Independent Claims 1 and 23.

However, the Examiner meticulously cited sections of BERSTIS and BRADY for all the elements of independent Claim 1, except for two claim elements. The Examiner did not find anywhere in BERSTIS or BRADY individually, or the combination thereof, at least two elements of independent Claim 1 including:
"verifying that entries in the plurality of second index files are appropriate for the selected subject; and

making a vortal accessible on another network device via the computer network for the selected subject using the final index."

Since the prior art references do not teach all of the claim elements by the Examiners own words and analysis, the Examiner has not established a prima facie case of obviousness in violation of the holding of *In re Vaack* and *In re Royka*. Thus, Section 103 rejection is clearly improper, must be immediately withdrawn. The Applicant need not respond any further because the Examiner has not established a prima facie case of obviousness.

The Examiner, failing to find a teaching for all the claim elements in the combination of BERSTIS and BRADY then tries to overcome his failings but stating the missing claim elements are obvious by simply asserting "It would have been obvious to one of ordinary skill in the art at the time the invention was created to verify that the entries in the second index files fall within the selected subject for the vortal. Additionally, it would have been

obvious to one of ordinary skill in the art at the time the invention was created to have the vortal available for access by another network device via a general computer network. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the inventions suggested by BERSTIS and BRADY."

The Examiner's assertions are clearly is mis-application of U.S. Patent Law. The Examiner simply cannot say claim elements he does not find in the combination of references are obvious to one of ordinary skill in the art.

The holding of *All-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308 (Fed. Cir. 1999) clearly states "the level of skill in the art cannot be relied upon to provide the suggestion to combine references."

The holding of *Ex Parte Levensgood*, 217 F.3d 1365 (Fed. Cir. 2000) also clearly states a making a statement that a claimed invention would have been within the ordinary skill of the art at the time the invention was made is not sufficient to establish a *prima facie* case of obviousness.

The Examiner then asserts "One of ordinary skill in the art would have been motivated to do this modification so that in creating a vertical search engine, keywords are processed to be included in a final index such that the final index correlates to a specific subject or topic."

The Examiner is reminded that the mere fact that the references can be combined or modified (which is not the case in this matter) does not render the resultant combination obvious unless the prior art also suggests the desirability of

the combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990). Neither BERSTIS and BRADY suggest such a combination, and in fact teach away from such a combination as is discussed below. In addition, the final index of the claimed invention includes the xxx.

The Examiner is reminded that a *prima facie* case of obviousness can be rebutted by showing that the art, in any material respect teaches away from the claimed invention. *In re Geisler*, 116 F.3d 1465 (Fed. Cir. 1997).

Berstis teaches "Conventional search engine applications maintain a centralized keyword index which consumes considerable space and requires frequent and time consuming updates. The problem of traffic overload on conventional search engines caused by such centralized functionality can be eliminated by first migrating and distributing a portion of the searching and indexing functionality to local sites and servers...local sites support local search engines which perform indexing of all pages maintained at each respective site. A global, top-level search engine maintains and periodically updates its own master index. During such updates, the global search engine incorporates information from the locally maintained indices at each Web site. In an alternate embodiment, the global search engine would retrieve only the Internet Protocol (IP) address of the local sites associated with word-to-page links relating to the searched words. In this manner, when a user commences a search, the global search engine responds by providing a list of sites (site addresses) rather than page addresses." (Col. 4, lines 55-67).

Brady teaches an automated method of creating and updating a database of resumes and related documents (Abstract).

The claimed invention has no such limitations. Thus, Bertsis alone, Brady alone and the combination thereof clearly teaches away from the claimed invention in several material respects. Therefore, even if the Examiner had established a *prima facie* case of obviousness, and as discussed above, the was not true in this matter since the Examiner did not find all of the claimed elements of the claimed invention, any *prima facie* case of obviousness is rebutted based on the holding of *In re Giesler*.

The Examiner is also reminded that if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984).

Berstis teaches "Conventional search engine applications maintain a centralized keyword index which consumes considerable space and requires frequent and time consuming updates. The problem of traffic overload on conventional search engines caused by such centralized functionality can be eliminated by first migrating and distributing a portion of the searching and indexing functionality to local sites and servers. In one embodiment of the present invention, local sites support local search engines which perform indexing of all pages maintained at each respective site (Col. 4, lines 48-54). Berstis also teaches requirement of using local search engines which perform indexing of all pages maintained at each respective local site

instead of spiders or crawlers to update a centralized keyword index. (Col. 4, lines 55-67).

Brady teaches: "One particular aspect of this embodiment is where said method is used to create or update a database of publicly available resumes retrieved from a network of documents." (Col. 6, lines 1-3). Brady also teaches use of a 'spider or 'crawler that refers to a sequence of computer commands in the form of a computer program, subroutine or the like, that locate and retrieve documents according to specified criteria from a network of documents, such as, the Internet, the World Wide Web, LANs, intranets, or the like. (Col. 4, lines 11-15). "For example in the instance where the spider is retrieving publicly available resumes and publications from the web, a retrieved resume may provide a link to a publication directed to subject matter that is relevant to the position that is to be filled." (Col. 5, lines 10-19).

Since Brady requires use of a spider or crawler and Bertsis in part was created to eliminate the use of a spider or crawler by requiring use of local search engines, combining Brady and Bertsis makes Bertsis unsatisfactory for one of its intended purposes of eliminating use of spiders and crawlers. Therefore, there is no suggestion or motivation to make the proposed modification based on the holding of *In re Grady*.

The Examiner is also reminded that evidence supporting no reasonable expectation of success of combining two references supports a conclusion of nonobviousness; *In re Reinhart*, 531 F.2d 1048 (CCPA 1976) and if the proposed

modification or combination of the prior art would change the principal operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti* 270 F.2d 810 (CPPA 1959).

Bertsis, which eliminates the need for spider or crawlers by requiring local search engines on each site, could not be combined with Brady, which requires the use of spiders and crawlers to obtain resumes from the Internet, cannot be successfully combined because the combination would change the principle operation of Bertsis. Thus, the combination of Bertsis and Brady cannot render the claims *prima facie* obvious based on the holdings of *In re Reinhart* and *In re Ratti*.

Thus, Claims 1 and 23 are not obvious and the rejections of Claims 1 and 23 are improper. Therefore the rejection of Claims 1 and 23 must be immediately withdrawn.

Dependent Claims 2 and 4

The arguments for independent Claims 1 and 23 are incorporated by reference. Claims 2 and 4 are dependent claims that add additional limitations not included in the corresponding independent claims. The Examiner is reminded that if an independent claim is nonobvious under 35 U.S.C. 103, than any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Thus, Claims 2 and 4 are not obvious and the rejections of Claims 2 and 4 are improper. Therefore the rejection of Claims 2 and 4 must be immediately withdrawn.

Second Section 35 U.S.C. §103 Rejection

Claims 3, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over BERSTIS, in view of BRADY, and in further view of *Official Notice*. BERSTIS and BRADY teach the limitations of claims 1, 2, 4 and 23 for the reasons stated above. The Applicant traverses this assertion. The Applicant may respond only to specific statements in the assertion. However, the Applicant intends to traverse all the Examiner's assertions.

Second Section 35 U.S.C. §103 Response

The Examiner admits that BERSTIS and BRADY differ from the claimed invention in that they fail to specifically disclose that the DNS for the Internet is included in the DNS for the network (claims 3 and 25). *The Applicant accepts this admission.*

The Examiner admits that BERSTIS and BRADY differ from the claimed invention in that they fail to specifically disclose that the opening of a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file (claim 24). *The Applicant accepts this admission.*

The Applicant traverses the assertion of Official Notice taken by the Examiner as follows.

The Examiner is reminded that there must be some form of evidence in the record to support an assertion of Official Notice. *In re Lee*, 277 F.3d at 1344-45 (Fed. Cir. 2002). The Examiner has not provided any such evidence other than to assert that "it would have been obvious to one of ordinary skill in the art at the time the invention was made."

The Applicant traverses this assertion of Official Notice as being defective and improper because: (1) the Examiner admitted that Neither Berstis nor Brady alone or in combination teach the claim limitations the Examiner took Official Notice of; (2) Claims 3, 24 and 25 are dependent claims addition the additional limitations to the corresponding independent claims that are not obvious in combination; (3) these dependent claims add additional limitations to the vertical search engine with the specific features claimed by the Applicant; (4) there were very few vertical search engines in existence period when the Applicant filed the original parent application in 2001 that the current divisional application is based on and there are still very few vertical search engines used at all on the Internet; (5) there were no vertical search engines with the claim elements of the combination of the independent and dependent claims that the Applicant new about at the time the application was filed.

Since the Applicant has adequately traversed the Examiner's assertion of Official Notice, the Examiner must provide documentary evidence of proof for the Office Notice with the rejected claim limitations used in a vertical search engine at the time the Applicant filed the application in the next Office action if the rejection

is to be maintained. *In re Zurko*, 258 F.3d 1379, 1697(Fed. Cir. 2001). The Applicant respectfully requests such evidence.

Thus, the rejections of Claims 3, 24 and 25 are improper. Therefore the rejection of Claims 3, 24 and 25 must be immediately withdrawn.

Third Section 35 U.S.C. §103 Response

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over BERSTIS, in view of BRADY, and in further view Sullivan et al (U.S. Patent No. 5,956,711, hereinafter referred to as SULLIVAN), filed on 16 January 1997, and issued on 21 September 1999. BERSTIS and BRADY teach the limitations of claims 1, 2, 4 and 23 for the reasons stated above.

The Applicant traverses this assertion. The Applicant may respond only to specific statements in the assertion. However, the Applicant intends to traverse all the Examiner's assertions.

Third Section 35 U.S.C. §103 Response

The Examiner admits that BERSTIS and BRADY differ from the claimed invention in that they fail to specifically disclose the method of eliminating generic keywords and adding synonyms and modified spellings of keywords to the list (claim 5). *The Applicant accepts this admission.*

The Arguments for Claims 1 and 23 are incorporated by reference. Since the Applicant clearly explained by BERSTIS and BRADY were not obvious and the Examiner admitted that BERSTIS and BRADY did not teach the claim limitations

of Claim 5, the combination of BERSTIS, BRADY and SULLIVAN cannot teach the limitations of Claim 5.

Claim 5 is a dependent claim that add additional limitations not included in the corresponding independent claims. The Examiner is reminded that if an independent claim is nonobvious under 35 U.S.C. 103, than any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

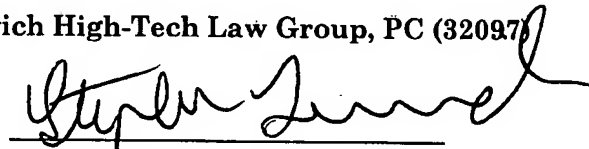
Thus, the rejections of Claim 5 is improper. Therefore the rejection of Claim 5 must be immediately withdrawn.

CONCLUSION

The prior art made of record in the Office Action but not relied upon by the Examiner is no more pertinent to Applicant's invention than the cited references for the reasons given above. Claims 26 and 27 include subject matter allowed by the Examiner. The Applicant therefore submits that all of the claims in their present form are immediately allowable and requests the Examiner withdraw the Section §101 and §103 rejections of claims and pass all of the claims to allowance.

Respectfully submitted.

Lesavich High-Tech Law Group, PC (32097)

A handwritten signature in black ink, appearing to read "Stephen Lesavich", written over a horizontal line.

Stephen Lesavich, PhD
Reg. No. 43,749

Dated: February 6, 2007



PATENT
PRELIMINARY AMENDMENT AND RESPONSE
FOR REQUEST FOR DIVISIONAL APPLICATION OF 09/918,838

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(LHTG No. 00,1247-A)

In re Application of: Matthew A. Fordham)

Serial No. 09/918,838)

Filed: July 31, 2001)

For: METHOD AND SYSTEM FOR
CREATING VERTICAL SEARCH
ENGINES)

COPY

Examiner: Fleurantin, Jean B.

Group Art Unit: 2172

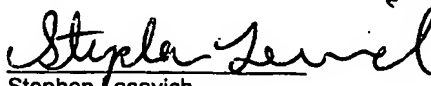
Conformation No. 3942

Customer No. 30297

Mail Stop: Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING BY "EXPRESS MAIL" UNDER 37 CFR § 1.10:

The undersigned hereby certifies that this *Preliminary Amendment and Response for Divisional Application* included herein, is being deposited with the United States Postal Service with sufficient postage as "Express Mail Post Office to Addressee," Express Mail No. **EV338119847US** in an envelope addressed to: Mail Stop: Patent Application, Commissioner for Patents, P.O. Box 1450, Arlington, Virginia, 22313 on this 10th day of March, 2004.


Stephen Lesavich
Registration No. 43,749

PRELIMINARY AMENDMENT AND RESPONSE

FOR DIVISIONAL APPLICATION

Applicant requests consideration of the following Preliminary Amendment
with a request for a Divisional patent application based on the above referenced
U.S. Patent Application.

PATENT
PRELIMINARY AMENDMENT AND RESPONSE
FOR REQUEST FOR DIVISIONAL APPLICATION OF 09/918,838

1. (Original) A method for creating a vertical search engine, comprising:
 - receiving a list of a plurality of keywords to be used for the vertical search engine on a network device, wherein the list of keywords includes general and specific keywords for a selected subject;
 - processing the list of plurality of keywords to create a refined list of keywords, wherein the processing includes adding, subtracting or modifying automatically the list of plurality of keywords;
 - creating a plurality of first index files associated with a plurality of first data files by checking a plurality of domain names from a plurality of domain name files associated with a domain name system for a computer network, wherein the plurality of first index files include a plurality of pointers to the associated data files, and wherein the plurality of first data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files;
 - creating a plurality of second index files with associated plurality of second data files by searching the plurality of first index files for keywords from the refined list of keywords, wherein the plurality of second index files include a plurality of pointers to the associated plurality of second data files, and wherein the plurality of second data files include a plurality of entries including electronic information extracted from a plurality of web-sites associated with the plurality of active domain names for keywords from the refined list of keywords;

verifying that entries in the plurality of second index files are appropriate for the selected subject;

creating a final index from the plurality of entries first index; and

making a vortal accessible on another network device via the computer network for the selected subject using the final index.

2. **(Original)** The method of Claim 1 further comprising a computer readable medium having stored therein instructions for causing a processor to execute the steps of the method.

3. **(Original)** The method of Claim 1 wherein the domain name system for the computer network includes the Domain Name System for the Internet.

4. **(Original)** The method of Claim 1 wherein the plurality of entries including electronic information extracted from a plurality of web-sites associated with a plurality of active domain names from the plurality of domain name files include a title, description, a uniform resource locator, or a pre-determined amount of electronic content associated with a web-site associated with an active domain name.

5. **(Original)** The method of Claim 1 wherein the processing step includes:
eliminating keywords that are too generic or have multiple meanings;
modifying keywords by adding alternative spellings or additional words; and

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adding automatically synonyms for keywords to the list of plurality of keywords
to create the refined list of keywords.

6. (Original) The method of Claim 1 wherein the step of creating a plurality of
first index files includes:

opening a plurality of top-level domain name files associated with the domain
name system for the computer network;

checking a plurality of domain names from the plurality of open top-level domain
name files to determine whether any of the plurality of domain names are associated with
an active web-site on the computer network;

extracting domain names in the plurality of open top-level domain name files
associated with active web-sites on the computer network;

storing the extracted domains names in a plurality of entries in a plurality of
separate files, thereby creating a plurality of separate files including the plurality of
entries; and

sorting each of the plurality of separate files based on a pre-determined sorting
scheme to create a plurality of sorted separate files.

7. (Original) The method of Claim 6 wherein the step of opening a plurality of
top-level domain name files associated with a domain name system including opening a
.COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file associated with
the Internet domain name system.

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8. (Original) The method of Claim 6 wherein the checking step includes attempting to visit a web-site on the computer network with a software spider to determine whether the web-site is active.

9. (Original) The method of Claim 6 wherein the checking step includes extracting electronic content from an active web-site on the computer network.

10. (Original) The method of Claim 6 wherein the extracting step includes:

(a) adding a first individual character component to a first file based on the first character of an entry, when the first individual character component was derived from an entry in one of the plurality of open top-level domain name files;

(b) moving the first character of the first individual character component to an end of the first individual character component, thereby exposing a next character and creating a next individual character component;

(c) adding the next individual character component to a next file based on the next character of the first individual character component;

(d) moving the next character of the next individual character component to an end of the next individual character component, thereby exposing a (next character+1) and creating a (next character+1) individual character component;

(e) adding the (next character+1) individual character component to a (next character+1) file based on the (next character+1) of the (next character+1) individual

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character component;

(f) repeating steps (d) and (e) until first character of the first individual character component is reached.

11. **(Original)** The method of Claim 6 wherein the storing step includes storing the plurality of individual character components in a plurality of separate files including one file for each letter of the English alphabet (A-Z), and the numbers zero through nine.

12. **(Original)** The method of Claim 6 wherein the sorting step includes sorting each of the plurality of separate files based on an ASCII value of characters stored in the plurality of separate files.

13. **(Original)** The method of Claim 1 wherein the step of creating a plurality of first index files includes:

(a) selecting a keyword from the refined list of keywords;

(b) determining whether the selected keyword comprises multiple words, and if

so,

(c) selecting a word with the greatest number of individual characters from the multiple words comprising the selected keyword,

(d) opening a one of a plurality of sorted separate files based on a first character of the selected word from the selected keyword, wherein the plurality of sorted

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separate file were created by indexing a plurality of domain name files associated with a domain name system for the refined list of keywords, and

(e) searching the open sorted separate file for the selected word from the selected keyword,

(f) repeating steps (c) through (e) for remaining words in the selected keyword;

and if not,

(g) opening a one of a plurality of sorted separate files based on a first character of the selected keyword, wherein the plurality of sorted separate file were created by indexing a plurality of domain name files associated with a domain name system for the refined list of keywords, and

(h) searching the open sorted separate file for the selected keyword;

(i) determining whether the selected keyword has been found in the open separate sorted, file, and if so,

(j) adding an entry to a first index file for the selected keyword;

(k) repeating steps (a), (b) and (i) for remaining keywords from the refined list of keywords.

14. (Canceled) A method for indexing a plurality of domain name files, comprising:

opening a plurality of top-level domain name files associated with a domain name system for a computer network;

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checking a plurality of domain names from the plurality of open top-level domain name files to determine whether any of the plurality of domain names are associated with an active web-site on the computer network;

parsing domain names in the plurality of open top-level domain name files associated with active web-sites on the computer network into a plurality of individual character components based on a pre-determined parsing scheme;

storing the plurality of individual character components in separate files, thereby creating a plurality of separate files including the plurality of individual character components; and

sorting each of the plurality of separate files based on a pre-determined sorting scheme to create a plurality of sorted separate files.

15. **(Canceled)** The method of Claim 14 further comprising a computer-readable medium having stored therein instructions for causing a processor to execute the steps of the method.

16. **(Canceled)** The method of Claim 14 wherein the step of opening a plurality of top-level domain name files associated with a domain name system including opening a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file associated with the Internet domain name system.

17. **(Canceled)** The method of Claim 14 wherein the domain name system for the

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computer network includes the Domain Name System for the Internet.

18. (Canceled) The method of Claim 14 wherein the checking step includes attempting to visit a web-site on the computer network with a software spider to determine whether the web-site is active.

19. (Canceled) A method for creating a plurality of index files, comprising:

opening a plurality of top-level domain name files associated with a domain name system for a computer network;

checking a plurality of domain names from the plurality of open top-level domain name files to determine whether any of the plurality of domain names are associated with an active web-site on the computer network;

extracting domain names in the plurality of open top-level domain name files associated with active web-sites on the computer network;

storing the extracted domains names in a plurality of entries in a plurality of separate files, thereby creating a plurality of separate files including the plurality of entries; and

sorting each of the plurality of separate files based on a pre-determined sorting scheme to create a plurality of sorted separate files.

20. (Canceled) The method of Claim 19 further comprising a computer readable

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medium having stored therein instructions for causing a processor to execute the steps of the method.

21. (Canceled) The method of Claim 19 wherein the step of opening a plurality of top-level domain name files associated with a domain name system including opening a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file associated with the Internet domain name system.

22. (Canceled) The method of Claim 19 wherein the checking step includes attempting to visit a web-site on the computer network with a software spider to determine whether the web-site is active.

23. (Original) A vertical search engine system, comprising in combination:
a vertical search engine server with associated database for indexing and searching a plurality of top-level domain name files associated with a domain name system for a computer network for a selected list of keywords for a selected topic, for indexing and searching electronic content from a plurality of web-sites identified by a plurality of domain names from the plurality of top-level domain name files and for creating a vortal index from the indexed plurality of top-level domain name files and the electronic content from the plurality of web-sites; and
a protocol stack on the vertical search engine server for communicating with other network devices on the computer network; and

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a server network device for making a vortal accessible on a network device via the computer network for a selected subject using the vertical index created by the vertical search engine server.

24. (Original) The vertical search engine system of Claim 23 top-level domain name files associated with a domain name system including opening a .COM, .EDU, .GOV, .MIL, .NET or .ORG top-level domain name file associated with the Internet Domain Name system.

25. (Original) The vertical search engine system of Claim 23 wherein the domain name system for the computer network includes the Domain Name System for the Internet.

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In the SPECIFICATION:

Please amend the Specification on page 2, Line 1, to include the following new text:

--CROSS REFERENCES TO RELATED APPLICATIONS

This U.S. Application is a Divisional of U.S. Application No. 09/918,838 filed on July 31, 2001, that issued as U.S. Patent No. 6,xxx,xxx, xx on yyyy, 2004.--

Please amend the Specification on Page 7 to delete the second paragraph comprising lines 6-11:

~~One aspect of the invention includes a method for creating a vertical search engine. Another aspect of the invention includes a method for indexing plural domain names associated with a domain name system for a selected set of keywords. Another aspect of the invention includes a method for indexing electronic content from web sites for plural domain names associated with the domain name system for the selected set of keywords.~~

The Specification amendments are included to confirm with the requirements of a Divisional Application but are not intended to abandon or waive any rights whatsoever.

IN the ABSTRACT OF THE DISCLOSURE:

Please amend the ABSTRACT OF THE DISCLOSURE on Page 41 as follows:

~~A vortal is a specific type of search engine that provides information and resources related only to one (or a small number) specific topic. These sites typically contain focused information, such as "vertical" or "in depth" information pertinent only to their particular targeted topic of interest. Vortals include information pertinent to a targeted topic of a very small horizontal breath, but a larger depth. A method and system for creating a vertical search engine is presented. The method and system may help allow vortals~~ **"vortals"** ~~to be created for the Internet and other computer networks that efficiently index and search lists of Uniform Resource Locators ("URLs") created from an appropriate list of keywords for a selected topic: Vortals include information pertinent to a targeted topic of a very small horizontal breath, but a larger depth.~~ The created vortals may provide greater user satisfaction and less user frustration when searching for information about a selected topic.

The amendments to the ASTRACT OF THE DISCLOSURE are included to file the Divisional Application but are not intended to abandon or waive any rights whatsoever.

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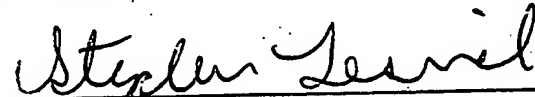
RESPONSE

Remarks

Claims 1-13 and 23-25 are pending in this Divisional Application. Claims 1 and 23 are in independent format. Applicant now respectfully requests the Examiner consider the pending claims in the Divisional Application.

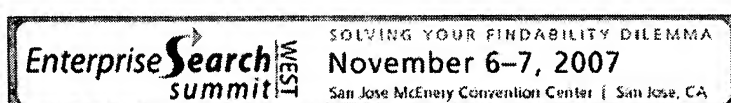
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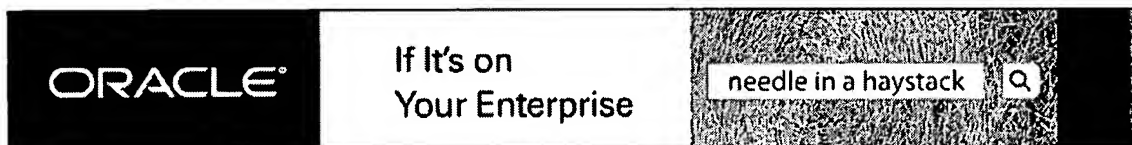


Stephen Lesavich, PhD
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LookSmart Launches Vertical Search Engines Aimed at Targeted Demographics

Posted Apr 1, 2005

Print Version Page 1 of 1

LookSmart has announced the launch of its first five vertical search destinations to provide niche audiences with search results. After analyzing audience and research data from FindArticles, LookSmart has developed five separate vertical content destinations, including homework helpers: the www.teenja.com for teens; the more studious www.gradewinner.com for "tweens"; and www.24hourscholar.com for college students. Two additional resources are dedicated to parents - www.parentsurf.com for all family matters, and www.gobelle.com for moms on the go.

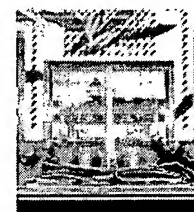
The vertical search destination--and all other LookSmart search properties--will soon be tightly integrated via "Furl," LookSmart's consumer online filing cabinet. After researching and pinpointing information on the new verticals, Furl enables users to save content to a personal archive, as well as share the information with others. Furl also allows users to search across a member network, which builds associations between individuals who share a passion. (www.looksmart.com)

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What is vertical search?

Vertical search engines aim at people interested in a particular area and enable ad companies to target very focused audiences

By Juan Carlos Perez, IDG News Service
January 18, 2006

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Because of the stranglehold Google
and a few others have on the general-
purpose search-engine market, new
entrants have created vertical search
engines. Unlike their general-purpose
cousins, such as the ones run by
Google and Yahoo, vertical search
engines contain information in their
indexes about a specific topic.

Consequently, they are aimed only at
people interested in a particular area,
and deliver a narrow and very focused
audience to the companies that
advertise on them. For example, there
are search engines for veterinarians,
doctors, patients, job seekers, house
hunters, recruiters, travelers, and
corporate purchasers.

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Tealeaf helps 30% of the largest
online retailers see it all.



As an advertising vehicle, Indeed.com, a jobs search engine, caters to
recruiters and providers of online education or training, says Paul Forster, chief executive officer, who co-founded the company in 2004.

"Advertising on vertical search engines is all about fishing where the fish are. You as a marketer need to go where the target group you're
trying to reach is," says Scott Virkler, vice president of business development at GlobalSpec, which links buyers and sellers of electrical,
mechanical and optical products and has been around since 1996.

After a company finds a vertical search engine appropriate for its business category, it should determine whether advertising in it can
generate attractively priced customer leads for the company, says Jupiter Research analyst Gary Stein. "For many marketers, a vertical
search engine makes a lot of sense," Stein says.

Advertisers should also determine the quality of the engines targeting their industries, by inquiring about their index size and determining
how useful they are to users, Stein says. "If it's got good data in a large index, then you can say it's a viable business and know your
customers will go to that search engine," Stein says.

Experts generally agree that vertical search isn't a passing fancy, but rather a segment of the search market with a high potential for
growth. "I don't think it's a fad," says Greg Sterling, an analyst with The Kelsey Group. "The general Web search market is pretty much
locked up, so vertical search is where the opportunity to create something competitive is."

Dave Hills is so sure that vertical is the natural evolution and future of search that after he took over as CEO of LookSmart in late 2004, the
company launched 181 vertical search sites.

Hills, a veteran of the broadcast industry, is convinced that just as radio, print, and TV splintered into myriad outlets targeting niche
audiences, the same will happen in search. "The way I view vertical search is that if Google is going to be CBS, I want to be Turner
Broadcasting," Hills says.

In a vertical search engine, a company can run an ad that is different from the one it runs on Google, in the same way that a company runs
different TV ads on NBC and MTV, Hills says.

Others agree. "It would be as if a print advertiser said 'Gee, The Wall Street Journal reaches all business people in the U.S., so why do I
need to advertise in other business publications?' But the truth is it does work to advertise elsewhere," says Dan Savage, CEO of
SourceTool.com, a business-to-business search engine designed to link buyers and suppliers.

Vertical search hasn't escaped the radar of Google, Yahoo and the other leaders in general Web search. They all let users search through
local business directories and provide driving directions and maps. Some have job engines. Others provide different levels of multimedia
content search. But these search engines aren't generally considered to go deep enough into specific areas, which is where others are
finding the opportunity.

However, that could change, The Kelsey Group's Sterling says, adding that he's seeing Google and others taking concrete steps to provide
more useful vertical search services.

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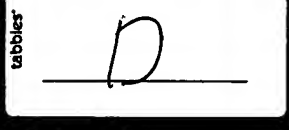
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Vertical Search Creates Buzz In Silicon Valley



By Nick Wilson
Expert Author
Article Date: 2005-03-16

Om Malik writes about the buzz surrounding vertical search on Sandhill Road. On explaining vertical, he says ...

So what is vertical search? It is a specialized search engine that mines data for one narrow niche of the market place. Say jobs or travel. Or even high end real estate.

Because the data sources are so fragmented, there seems to be an opportunity to massage the data and present it in a manner that is simple to use and easy to consume. Sort of meta search for niches.

The main reason this is supposed to work is that the two older advertising models - cost per thousand (aka banner ads) and cost per click are too inefficient and fraught with fraud-related risk. Vertical search can offer a more focused audience, and thus increase the efficiency of ads on the search engine.

It also presents a new kind of advertising opportunity - lets call it cost per action. If you can generate leads, or say have some sign-up for an email newsletter or a RSS feed, you suddenly have created much higher value, and thus that click is more valuable.

Om's commentary on how VC's are getting all giddy over vertical ties in with a recent [Jupiter Media Report](#) predicting the rise of vertical search and although there has been some contention over the details, it does look like we'll be seeing more money poured into vertical search startups soon...

About the Author:

Nick Wilson is the publisher and founder of [Threadwatch.org](#).

Threadwatch is a group blog, or forum if you prefer, focusing on Marketing and Related Technologies - News



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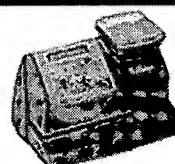
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LOGIKA's vertical search engines are designed to give users easy access to the most comprehensive information on the Internet.

What is Vertical Search?

LOGIKA develops custom, topic-specific search engines for specific communities of interest / vertical industries, and private labels them through our customer's websites. In this manner, our customer can offer a significantly valued added service; robust, fast, and relevant search results targeted to their users interests, without all the clutter of a typical search engine.

Why Vertical Search?

Since sites catered to a specific market attract an audience with a specific interest, our custom search engines help deliver content pertinent to their interests, resulting in a significantly enhanced user experience through more productive searching.

Bottom line: They find what they are looking for.

Furthermore, our vertical search solution can be implemented transparently, meaning despite the search application being hosted remotely, the end user is unable to distinguish the difference. Thus, you can offer a custom vertical search solution by LOGIKA without having to build / install, configure, or maintain search on your side.

Obvious benefits include low investment for development and reduced time to market.

Sites who implement our vertical search solution benefit from: increased site stickiness, enhanced community interactivity, increased traffic, improved branding, and additional page views / high value revenue opportunity.

How we build them?

A major cost factor in building a portal within a particular segment of the market is continually finding / aggregating relevant content.

We can do this much more cost effectively, employing our custom FusionBot Platinum Technology, which combines the efficiency of technology with the accuracy of human judgment, to find, categorize, and make searchable relevant content. The result is the delivery of a cost effective topic-specific search solution with an unprecedented level of relevancy.

Our search solution helps reduce the cost to effectively "aggregate content" by putting at your visitor's fingertips a wealth of information across the web, pertinent to their interests, through the click of the search button. It's exactly what they've been searching for!

To learn more about how LOGIKA's search technology can assist you in developing the Web's next great vortal or community of interest web site, contact our [Sales Department](#).



To view an example of a LOGIKA FusionBot Platinum implementation, please visit www.lawperiscope.com, and search the Web for a lawyer.

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